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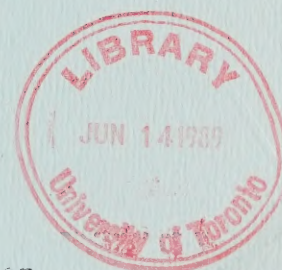


# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 107

DATE: June 2nd, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman  
E. MARTEL, Member  
A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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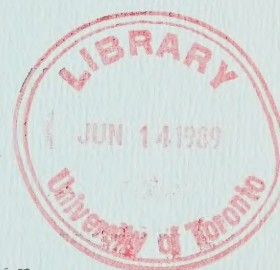
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

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Hearing held at the Ontario Energy Board, 2300  
Yonge Street, 25th Floor, Hearing Room No. 1,  
Toronto, Ontario, on Friday, June 2nd, 1989,  
commencing at 10:30 a.m.

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VOLUME 107

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member



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MS. Y. HERSCHER )	
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MS. J. SEABORN )	
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MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	





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(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





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<u>PETER PHILLIP HYNARD,</u>	
<u>RICHARD BRUCE GREENWOOD,</u>	
<u>CAMERON D. CLARK,</u>	
<u>FRANK D. KENNEDY,</u>	
<u>WILLIAM DOUGLAS BAKER,</u>	
<u>ROBERT ELLIOTT,</u>	
<u>RONALD ORVAL WAITO,</u>	
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I N D E X   O F   E X H I B I T S

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599	Prescribed Burn Plan Northern Region: Battersby Prescribed Burn, Township Battersby, November 2, 1987 (E.B. Eddy Forest Products).	17947
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602C	Excerpts from Audit Report from Provincial Auditor entitled: Ministry of Natural Resources, Aviation and Fire Management and Extra Fire Fighting Activities.	18014





1 ---Upon commencing at 10:55 a.m.

2 THE CHAIRMAN: Good morning. Please be  
3 seated.

4 Ms. Swenarchuk, just before we continue  
5 with your examination, there is one matter which is the  
6 dates for the scoping of Panel 14.

7 The Board took into account what was said  
8 yesterday in terms of counsel giving estimates as to  
9 how long they might be and when they might finish and  
10 we are running very short of time in connection with  
11 the scoping of this particular panel, bearing in mind  
12 that it may be reached...

13 ---Discussion off the record

14 THE CHAIRMAN: Mr. Martel, unfortunately,  
15 brought his wrong hearing book, so he's going to get  
16 the proper one. And I don't think it will impair the  
17 Board dealing with these dates since we have all  
18 discussed it.

19 The commencement of evidence-in-chief for  
20 Panel 14 - correct us if we are wrong - could start, on  
21 our calculations, as early as -- we calculate it as  
22 early as the latter part of the third or the fourth  
23 week of June.

24 MS. BLASTORAH: Mr. Chairman, we had  
25 estimated that it could start as early as the 20th or

1 the 21st of June.

2 THE CHAIRMAN: Okay. And bearing that in  
3 mind, we were coming to the conclusion that we would  
4 have to, in order to scope this panel, have the  
5 statements of issue of all parties delivered no later  
6 than the 14th of June with a scoping session to take  
7 place no later than the 19th of June, with the  
8 commencement of the panel - if you are correct, Ms.  
9 Blastorah - shortly after that.

10 MS. BLASTORAH: I would anticipate that  
11 will be the earliest it would start. I hope so.

12 THE CHAIRMAN: Well, that is what we  
13 thought as well. So there may be three or four extra  
14 days in there before the actual commencement of the  
15 evidence-in-chief.

16 We understand, Ms. Swenarchuk, some of  
17 your difficulties with respect to preparing for the  
18 funding hearing. We are advised with respect to the  
19 funding hearing that the funding panel has indicated  
20 that they want documentation submitted on or about the  
21 7th of June for the sessions which are to take place on  
22 the 12th and 13th and, therefore, you will have to have  
23 most of the documentation in by on or about the 7th and  
24 we are sort of then saying that: Within the following  
25 week we would like the statements of issue delivered by



1 all parties by the 14th of June rather than a later  
2 date, because it just is unfortunate in this case.

3 Unfortunate in one sense, it doesn't  
4 leave us much time for the scoping session; fortunate  
5 in another sense, that we are making some progress we  
6 think in some of these panels and not taking quite as  
7 long as we had originally anticipated.

8 MS. BLASTORAH: Mr. Chairman, is there  
9 any possibility we could do the scoping on the 16th.  
10 That is a sitting day although it is a Friday.

11 THE CHAIRMAN: That's the Friday. Well,  
12 there would certainly be no problem with the Board  
13 doing it on the 16th, bearing in mind that the  
14 statements of issues will have been delivered by all  
15 parties by the 14th.

16 MS. BLASTORAH: I think that might be of  
17 some advantage to us because we have, as I have  
18 indicated in the past, attempted to tailor the  
19 evidence-in-chief to address issues raised during the  
20 scoping session.

21 THE CHAIRMAN: Which is the purpose of  
22 the scoping session.

23 MS. BLASTORAH: That's right.

24 THE CHAIRMAN: So we don't want to  
25 preclude the very purpose of the session itself.

1 MS. BLASTORAH: It would give us the  
2 weekend to accommodate issues raised.

3 MR. FREIDIN: Would that be sufficient  
4 time for the Board to consider the material?

5 THE CHAIRMAN: Yes, yes. We'll just do  
6 it. We'll give you an undertaking that we will in fact  
7 do it.

8 MS. SWENARCHUK: Could I just confirm  
9 this. The Board is not sitting on the 12th and 13th;  
10 is that right?

11 THE CHAIRMAN: That is correct.

12 MS. SWENARCHUK: But it's sitting that  
13 week then, the 14th, 15th and 16th?

14 THE CHAIRMAN: That's right.

15 MS. SEABORN: Mr. Chairman, with respect  
16 to the 14th...

17 THE CHAIRMAN: Excuse me.

18 Yes?

19 MS. SEABORN: Mr. Chairman, with respect  
20 to the 14th, on the hearing notice it says we are  
21 starting at 1:00 p.m. but I had written in my book 9:00  
22 a.m. on the 14th, and I am wondering if we could have  
23 some clarification as to the starting time on that  
24 Wednesday?

25 ---Discussion off the record

1 THE CHAIRMAN: Subject just to us  
2 checking with Mr. Martel whether he could be into  
3 Thunder Bay on the night of the 13th - and we will  
4 check in a moment - we could start earlier on the 14th.

5 MS. SWENARCHUK: Well, Mr. Chairman...

6 THE CHAIRMAN: Do you have a difficulty?

7 MS. SWENARCHUK: We will be here on the  
8 13th.

9 THE CHAIRMAN: Right. You anticipate  
10 that will take all day, having started on the 12th?

11 MS. SWENARCHUK: The 12th will be -- the  
12 way the hearings were held last time is that those  
13 parties that wanted to present at various locations did  
14 so. So I expect that some parties will appear before  
15 the funding panel in Thunder Bay, some of us will do  
16 that in Toronto. So it's not a matter of continuing  
17 one after the other, you know.

18 THE CHAIRMAN: Oh, there may be a  
19 misunderstanding, Ms. Swenarchuk, because it was my  
20 understanding - and I will clarify this I suppose with  
21 the funding panel - that those funding hearings were  
22 only going to be held in Thunder Bay.

23 MS. SWENARCHUK: That went out in the  
24 notice. Mr. Mander informed me that in fact the second  
25 day would be in Toronto.



1 THE CHAIRMAN: You know more than I do  
2 then, which is not unusual.

3 Well, why don't we try and clarify that  
4 some time later and sort it out as to the start date on  
5 the Wednesday.

6 MS. SWENARCHUK: I guess I am requesting  
7 that we start at one o'clock.

8 THE CHAIRMAN: Start at one. Okay. And  
9 then we would come home late on Friday, the 5:10...  
10 ---Discussion off the record

11 THE CHAIRMAN: Mr. Martel advises that he  
12 would be in Thunder Bay that night of Tuesday in any  
13 event and, therefore...

14 MS. SEABORN: Mr. Chairman, I didn't want  
15 you to misunderstand my comments as requesting that we  
16 start early on the Wednesday.

17 It is in the official notice that we  
18 start at 1:00 p.m., it was just that I had had  
19 discussions with some other counsel and some of us had  
20 written in 9:00 a.m. that morning and then I checked it  
21 against the notice. It was just a question of  
22 clarification as to the time on the notice.

23 THE CHAIRMAN: Well, okay. I think what  
24 the Board would like to do is, through Mr. Mander, have  
25 some discussions with the funding panel and see,

1 perhaps maybe the funding panel can hold the Toronto  
2 session on Monday and the Thunder Bay session on  
3 Tuesday.

4 MS. SWENARCHUK: I have another solution,  
5 Mr. Chairman, and that is that on recalling I won't  
6 have to be in Thunder Bay on the Wednesday, so if the  
7 funding panel is here that is fine, other counsel will  
8 be going to Thunder Bay.

9 THE CHAIRMAN: Okay. Then perhaps it  
10 might be better to start at nine on the Wednesday and  
11 get in that extra time. Again, particularly in the  
12 weeks where we are losing some normal hearing time, the  
13 Board would like to pick it up where possible.

14 So does everyone have it straight:  
15 Statements of issue for Panel 14 are due on the 14th of  
16 June, we will scope that panel on the 16th of June and  
17 we will commence that panel whenever we are in a  
18 position to do so.

19 Thank you.

20 MS. SWENARCHUK: Mr. Chairman, I have  
21 talked to other counsel and with respect to exhibit  
22 numbers and the interrogatories, I wasn't able to find  
23 Mr. Mander this morning, but what I propose is to file  
24 or assign an exhibit number to a package and I will  
25 just give you the numbers of our interrogatories that I

1 suggest be included in that package.

2 THE CHAIRMAN: Okay.

3 MS. SWENARCHUK: So, those will be  
4 Forests for Tomorrow No. 2, No. 9, No. 10, 11, 12, 16,  
5 22, 28, 37; Ministry of Environment No. 19, and  
6 Federation of Anglers & Hunters No. 10.

7 THE CHAIRMAN: All right. And that will  
8 altogether be Exhibit 598.

9 ---EXHIBIT NO. 598: FFT Interrogatory Question Nos.  
10 2, 9, 10, 11, 12, 16, 22, 28, 37;  
11 MOE No. 19, and Federation of  
Anglers & Hunters No. 10.

12 THE CHAIRMAN: I take it all the parties  
13 have copies of those documents?

14 MS. SWENARCHUK: They were given notice  
15 in advance that those would be used.

16 JOHN TRUMAN ALLIN,  
17 PETER PHILLIP HYNARD,  
18 RICHARD BRUCE GREENWOOD,  
19 CAMERON D. CLARK,  
20 FRANK D. KENNEDY,  
WILLIAM DOUGLAS BAKER,  
ROBERT ELLIOTT,  
RONALD ORVAL WAITO,  
DAVID M. HOGG, Resumed

21 CONTINUED CROSS-EXAMINATION BY MS. SWENARCHUK:

22 Q. Mr. Waito, I believe. Could you turn  
23 to our Interrogatory No. 10 please, and take a moment  
24 to look at it.

25 THE CHAIRMAN: Ms. Swenarchuk, just



1 before you begin, I also wanted to advise that the  
2 Board will have to rise for lunch at 12:15 until two  
3 due to some previous commitments. So that you can  
4 structure your presentation around that.

5 MS. SWENARCHUK: I hope to be completed  
6 by then.

7 THE CHAIRMAN: Very well, thank you.

8 MR. WAITO: Okay, we have it here.

9 MS. SWENARCHUK: All right. I am  
10 referring to Interrogatory No. 10 of Forests for  
11 Tomorrow.

12 Now, the Board will see that we again  
13 asked for areas treated by natural seeding and  
14 percentage stocking obtained by treatment technique  
15 over the past ten years and that the Ministry's data  
16 did not allow them to provide that kind of detail.

17 Q. So, Mr. Waito, in the response you  
18 have indicated -- did you write this response?

19 MR. WAITO: A. No, Mr. Hynard did.

20 Q. I see, all right. Mr. Hynard, then.  
21 You have indicated at the sixth line of the second  
22 paragraph:

23 "Summaries are turned over to MNR each  
24 year in the company's annual report and  
25 included in the provincial summaries."

1                   Now, can you tell us exactly what detail  
2                   or what data about the regeneration treatments are  
3                   included in that company annual report?

4                   MR. HYNARD: A. Yes. It is the same  
5                   data we were discussing yesterday and; that is, it  
6                   would show the results of the fifth year stocking  
7                   assessments carried out by the company and it would  
8                   show those results by working group and forest unit  
9                   and, similarly, it would be for free to grow surveys  
10                  conducted by the company -- sorry, on the FMA and it  
11                  would show the area surveyed, the area declared free to  
12                  grow by working group and forest unit and by areas  
13                  treated and areas untreated.

14                  Q. And the treatments would not be  
15                  broken down by type of treatment; is that right?

16                  A. On the summary the treatment type  
17                  itself would not be specified and that is why it says  
18                  in our response to you that:

19                         "Based on the summaries alone, it  
20                         wouldn't be possible for us to provide an  
21                         answer."

22                  Now, those summaries are project -- or  
23                  the aggregates of projects. It is possible to  
24                  analyse -- it is possible for us to analyse any  
25                  specific area that we wished on any unit, but our

1 answer says that to do so for -- in conformity with  
2 your request would be an enormous undertaking.

3 Q. All right. Are you saying then,  
4 leaving aside the response to FFT, that in these  
5 project results which the Ministry has that you  
6 actually have data available on results by treatment  
7 type for all areas of the province then?

8 A. Well, yes, for the reason that the  
9 surveys are conducted on project areas and there are  
10 similarly records on the project itself, the type of  
11 treatment and the type of site.

12 Those kinds -- that kind of information  
13 exists so that if we wished to research or analyse the  
14 results of any particular treatment type by site type,  
15 it would be possible for us to do that. We have the  
16 capability but based on the summaries alone it is not  
17 readily available.

18 Q. Okay.

19 A. And our answer also points out that  
20 we are in the process of overhauling our silvicultural  
21 information and assessment systems. Mr. Gordon  
22 provided evidence in Panel 4 on that subject and I am  
23 certainly, as a unit forester, hoping and expecting  
24 that the new system will have greater capability for  
25 sorting and permitting analysis than the present

1 system.

2 Q. Okay. We look at FFT No. 11 then,  
3 and this is really a follow-up question with regard to  
4 the summaries.

5 Mr. Hynard, in answer to our question  
6 about past results of natural regeneration methods you  
7 indicate that:

8 "Summaries of these assessment results  
9 are reported in each management unit's  
10 annual report each year."

11 And I just wanted to ask if the annual  
12 reports of the management units are available to the  
13 public?

14 A. Never had that request before and I  
15 don't see any reason why not. I have never been asked  
16 and I have never handed them out. I don't see any  
17 reason why not. I will undertake to confirm that for  
18 you if you wish.

19 Q. Thank you. Please do.

20 A. You see, yesterday you asked the  
21 question: What kind of information is available to the  
22 public about regeneration and regeneration success.  
23 And since the timber management planning process is  
24 entirely open to the public, it is possible for you to  
25 look at the areas that the management plan prescribes



1 for regeneration treatment during the period and in the  
2 annual reports and in the report on past operations in  
3 the next plan on a comparison of how much work was  
4 actually performed.

5 Similarly, you could look at the amount  
6 of survey data the plan forecasts should be collected  
7 and compare that against the amount of data that was  
8 actually collected and the results of that data.

9 Q. Okay. Are the results of the data  
10 part of the plan, reported in the plan??

11 A. They are part of the -- yes, they  
12 are. They are part of the annual report and,  
13 similarly, there's a table in the plan reporting on  
14 past operations including regeneration success. So  
15 that if you go to review a draft plan, you can look at  
16 that information and knowing--

17 Q. Thank you.

18 A. --what the previous plan forecast  
19 should be done you can make that comparison.

20 Q. Are you saying that all the  
21 management plans in the province report on past  
22 regeneration successes?

23 A. Yes. Part of the report on past  
24 operations reports that, that's correct.

25 Q. Reports treatments carried out or

1 success rates?

2 A. It reports both.

3 Q. Mr. Hynard, that's contrary to advice  
4 that I had received. Could you kindly confirm that for  
5 us?

6 A. Yes. It's contained on page 47 of  
7 the timber management planning manual and the report  
8 number is Table 47 and it is entitled: Report of Free  
9 to Grow Assessment and Success.

10 So you would be able to look at that  
11 table and find out how much area was actually assessed  
12 for free to grow and what the results were. You could  
13 then compare that table against what the plan for the  
14 previous five-year period said should be assessed and,  
15 for example, did the Ministry during that period  
16 conduct the amount of regeneration assessment that it  
17 said it should be doing and what were the results of  
18 those assessments.

19 Q. And would that data be available by  
20 regeneration method?

21 A. No, it's available -- it's broken  
22 down in that summary by treated versus untreated, it's  
23 not broken down by regeneration method and  
24 silvicultural harvest system nor by site type.

25 There are all kinds of breakdowns that

1 are possible. This is a summary just reporting on  
2 degree or amount of success and foresters who wish to  
3 investigate specific areas on their units, because they  
4 are expecting problems, have the capability of  
5 analysing it, making that breakdown, but in the  
6 summaries in a management plan it's not possible or at  
7 least practical to provide every variable.

8 Q. One moment, please. So then to get  
9 that kind of detail, Mr. Hynard, the public would have  
10 to go back to the annual reports; is that right?

11 A. No. This Table 47 is actually an  
12 aggregate of all the tables produced in each annual  
13 report during the previous five years.

14 Q. I mean, to get detail with regard to  
15 silvicultural systems and treatment methods used?

16 A. No. Again, the annual report  
17 provides the same summary by working group and forest  
18 unit and treated versus untreated.

19 If you wish to know success rates by  
20 actual treatment type, let's say for example you were  
21 interested in the success rate of lowland black spruce  
22 shear blading versus unbladed areas for natural  
23 regeneration, you couldn't find that in an annual  
24 report, that's simply too much detail.

25 You would -- the forester would be able

1 to investigate that based on--

2 Q. Individual projects.

3 A. --individual projects, exactly.

4 MS. SWENARCHUK: Mr. Chairman, I just ask  
5 you to look for purposes of later questions quickly at  
6 Question No. 12 which I am filing in which we asked for  
7 studies comparing the economic efficiency of  
8 alternative natural and artificial methods of  
9 regeneration and the answer that the MNR has not  
10 conducted such studies.

11 And Question 16 -- our Question 16 we  
12 asked for quantitative documentation in the form of  
13 regeneration assessment results and comparative studies  
14 on a province-wide basis to support the statement that  
15 artificial methods usually produce superior results.  
16 And the answer indicates that the statement is not made  
17 on the basis of any particular collection of  
18 regeneration assessment results, nor is the author  
19 aware of any comparative studies on a province-wide  
20 basis.

21 I am merely bringing to your attention  
22 our search for studies on the subjects.

23 MR. HYNARD: Ms. Swenarchuk, there was an  
24 answer provided -- there was an interrogatory by the  
25 OFIA/OLMA similar to your 16(c) in which we did provide



1 quantitative documentation. I don't have that  
2 interrogatory number right now, but I'll find out for  
3 you.

4 I have that. The interrogatory from  
5 OFIA/OLMA is 10(b). It asked a similar question about  
6 statistics or calculations supporting the view that  
7 natural regeneration methods are better in hard maple  
8 and poplar species and we provided an answer to them.

9 The difference between your question and  
10 their's was that you asked for studies on a  
11 province-wide basis and they simply asked for any  
12 statistics or calculations. And so I provided  
13 statistics and calculations from my own unit.

14 MS. SWENARCHUK: Q. And specifically you  
15 provided the results of fifth year stocking assessments  
16 for two working groups for the past three years from  
17 your one unit, Minden Crown management unit?

18 A. Yes, that's right. They asked for  
19 statistics or calculation in our possession that we  
20 would -- or that would suggest natural regeneration  
21 methods achieved the suggested results with poplar,  
22 hard maple and other hardwood species. That was their  
23 question and our response is attached to it.

24 MS. BLASTORAH: Mr. Chairman, just for  
25 the record, that was marked during the

1 evidence-in-chief I believe as Exhibit 542.

2 THE CHAIRMAN: Thank you.

3 MR. HYNARD: There is no doubt that we  
4 have been having difficulty producing province-wide  
5 statistics based on our outdated SIS system and we are  
6 certainly hoping and expecting that our new system,  
7 when we get it moving, will be much better.

8 MS. SWENARCHUK: Q. Now, if we could  
9 turn to page -- to FFT Question No. 37, please.

10 Now, we asked in this case for a timber  
11 management plan in which specific sites and practices  
12 are specified. And the response included a portion of  
13 the Red Lake Crown timber management plan.

14 And I would just like you to confirm for  
15 me - perhaps Mr. Kennedy is the appropriate person  
16 here - that in looking at the maps attached in which  
17 various prescriptions are noted, regeneration treatment  
18 prescriptions, it's not possible for someone looking at  
19 those maps to know anything about the specifics of the  
20 sites. Is that not correct?

21 MR. KENNEDY: A. When you use the words,  
22 specifics of the site, could you give me an example to  
23 illustrate the kind of things you are referring to?

24 Q. What site type it is, soil  
25 conditions, vegetation conditions, upland, lowland.

1                   A. I would suggest that there is some  
2 possibility for interpretation of information from the  
3 forest resource inventory maps that are provided that  
4 are a part of that package, but I would agree with you  
5 that there is not a specific listing of site type or  
6 soil conditions present or topography.

7                   Q. Okay.

8                   A. Although one could draw inferences  
9 from the information that is there if they are familiar  
10 with the type of treatments that are being proposed on  
11 those areas.

12                  Q. The first paragraph of the response  
13 indicates that:

14                   "The specific sites and practices are set  
15 out annually in the annual work schedule  
16 and individual project plans."

17                  Now, are those documents available to the  
18 public?

19                  A. The annual work schedule is  
20 available, yes. The individual project plans are  
21 simply the implementation, the operational  
22 implementaiton of the work that is set out in the  
23 schedule.

24                  Q. And that wouldn't be available for  
25 public review?

1                   A. It is not normally included in that  
2 detail in the annual work schedule, no.

3                   Q. Mr. Hogg, now. One last question on  
4 the interrogatories and this refers to the Ontario  
5 Federation of Anglers & Hunters Question No. 10. Have  
6 you had a chance to review that?

7                   MR. HOGG: A. Yes, I have.

8                   Q. Now, there are a number of documents  
9 attached in reply having to do with area of concern  
10 planning and if we look at the fourth page of that  
11 reply which says at the top, paragraph 5: Alternative  
12 Prescriptions Identified, we notice that with regard to  
13 a no cut alternative we simply see N/A and which I  
14 assume means not applicable.

15                   And, furthermore, when we look at  
16 paragraph 6: Environmental Analysis of Each  
17 Alternative Prescription, again we see the same comment  
18 with regard to a no cut prescription and I simply want  
19 to ask you why it would be that a no cut prescription  
20 was not considered and particularly why, in preparing  
21 what should have been an environmental analysis of each  
22 alternative prescription, that there was no attention  
23 analysis given to a no cut possibility?

24                   A. I must admit, Ms. Swenarchuk, that I  
25 am not certain of that. I, of course, am not involved



1 in preparation of plans and I am not sure what the site  
2 specifics are here that make the no cut not applicable.  
3 I am not sure I have the answer for you.

4 Q. Well, wouldn't you agree with me, Mr.  
5 Hogg, that if we are going to rely on the areas of  
6 concern planning process and each of these  
7 prescriptions are to be identified and analysed, that  
8 we would have expected to see some discussion of all  
9 alternatives including a no cut possibility?

10 A. I must admit that does seem  
11 reasonable. This information has been presented for  
12 public review and discussion. The opportunity is there  
13 to learn about these things.

14 Q. Obviously it would add to that  
15 opportunity if each possibility was analysed in full?

16 A. I cannot -- I don't have recollection  
17 as to why it has not been -- why more has not been said  
18 in this instance.

19 THE CHAIRMAN: Does anyone else on the  
20 panel have an explanation for that?

21 MR. FREIDIN: Well, Mr. Chairman, if they  
22 can answer that, that is fine. I can tell you Mr.  
23 Multimaki, who was the author of this plan, will be  
24 called as a witness in Panel 15.

25 THE CHAIRMAN: Anybody else answer it

1 now?

2 (no response)

3 Okay thank you.

4 MS. SWENARCHUK: Mr. Chairman, I would  
5 like to turn now to Exhibit 552 and Exhibit 551 which  
6 were the replies to our Interrogatory No. 15 regarding  
7 specific regeneration results.

8 THE CHAIRMAN: Are you saying that 551 is  
9 just your Question No. 15?

10 MS. SWENARCHUK: That's the exhibit  
11 number it was given this morning, yes.

12 MS. BLASTORAH: That's right, Mr.  
13 Chairman. There was quite a volume of material that  
14 was attached to it, a number of tables and so on, but  
15 551 was marked as the answers to Forests for Tomorrow  
16 Interrogatory No. 15 on this panel.

17 MS. SWENARCHUK: It's a covering letter  
18 and then an attached set of tables.

19 MS. BLASTORAH: I don't believe the  
20 covering letter was marked. I think it was just the  
21 actual interrogatory material.

22 MS. SWENARCHUK: Sorry. By covering  
23 letter I meant the second complete response to the  
24 interrogatory.

25 MR. FREIDIN: The document --

1 THE CHAIRMAN: I'm not sure. I have got  
2 in a package your Question 15.

3 MS. SWENARCHUK: Yes.

4 THE CHAIRMAN: And there is just a one  
5 paragraph answer to that.

6 MR. FREIDIN: Exhibit 551 has got a -- or  
7 it has a heading: Follow-up Answer, which goes on--

8 MS. SWENARCHUK: Remember we discussed  
9 this yesterday.

10 MR. FREIDIN: --and fills up the rest of  
11 the page and has all the attachments.

12 THE CHAIRMAN: Okay. Well, I am not sure  
13 that we have got that in front of us, unfortunately.  
14 We have 552.

15 MR. MARTEL: And 550.

16 THE CHAIRMAN: And 550 and 553.

17 MS. SWENARCHUK: Well, the tables are  
18 what you need the most.

19 Perhaps I will just read the paragraph  
20 from the complete answer which you don't have on the  
21 first page and we will make sure that we copy that for  
22 you afterwards.

23 THE CHAIRMAN: Okay.

24 MS. SWENARCHUK: Q. Now, Mr. Waito, do  
25 you have Exhibit 552?

1 MR. WAITO: A. Was it the overheads?

2 Q. Which was your analysis of the past  
3 results.

4 MS. BLASTORAH: That was the hard copies  
5 of the overheads, Mr. Chairman.

6 THE CHAIRMAN: Yes, we have that.

7 MR. WAITO: Okay, I have that.

8 MS. SWENARCHUK: Q. We will start at the  
9 bottom -- at the back for a moment. Would you turn to  
10 page H which is the last page of the package.

11 MR. WAITO: A. Okay.

12 Q. And you indicate as your last point  
13 that:

14 "Technology and practices have changed  
15 and improved in the past ten years and  
16 should result in an improved level of  
17 success in the future."

18 A. That's correct.

19 Q. Now, just looking back at what the  
20 data consists of, and if I can read a paragraph that  
21 the Board doesn't have, you indicated that:

22 "Attaches information on past results as  
23 requested in your Interrogatory No. 15.

24 The information provided is from three  
25 types of surveys; survival assessments,



1                    stocking assessments and free to grow  
2                    assessments and represents the period  
3                    1978-79 to 1987-88."

4                    Now, amongst the stocking -- amongst the  
5                    survival assessment results, most of which the year  
6                    analysed were second year survival results.

7                    A. That's right.

8                    Q. Presumably some of those could be  
9                    very recent since the data goes right up to 1988?

10                   A. That's correct.

11                   Q. So at least some of the results in  
12                   this package result to -- result from very current  
13                   silvicultural practices; is that not right?

14                   A. That's correct.

15                   Q. Okay. Now, could you turn to 552B,  
16                   please.

17                   A. I have that.

18                   Q. And this is your analysis of second  
19                   year survival rates.

20                   A. That's correct.

21                   Q. And you just help me, let's be clear  
22                   for the Board, this would then be assessments of the  
23                   number of planted trees which survived in the second  
24                   year?

25                   A. That's right.

1 Q. Okay. You indicate on the bottom of  
2 that page that your results are consistent with Panel 4  
3 evidence.

4 A. That's my belief, yes, my  
5 interpretation.

6 Q. Now, do you agree with these  
7 statements by Mr. Gordon in Panel 4:

8 "You can very often have initial high  
9 survival rates for planted trees. On a  
10 large portion of the sites out there  
11 competition problems do develop and if  
12 you don't take care of these trees, tend  
13 those trees, deal with the competition,  
14 then even though perhaps you have had 80  
15 or 90 per cent survival rates in year one  
16 or two in year five or seven you haven't  
17 tended the sites you may have a much  
18 lower survival rate at that point in  
19 time."

20 MR. WAITO: A. Absolutely.

21 MS. BLASTORAH: Could we have the  
22 transcript reference for that, please?

23 MS. SWENARCHUK: That is page 4987.

24 Q. And specifically, Mr. Waito, Mr.  
25 Gordon filed Exhibit 169 which had a comparison of

1 second and five-year survival rates. Have you had an  
2 opportunity to look at that?

3 MR. WAITO: A. I am familiar with it,  
4 because I have read over the witness statement in the  
5 past.

6 Q. I have copies if you want to, I don't  
7 know that it's necessary to file it. Would you just  
8 agree with me, or do you agree with me that that  
9 exhibit indicated lower survival rates at five years  
10 for most species than at two years?

11 MR. FREIDIN: What was the exhibit  
12 number?

13 MS. SWENARCHUK: I will provide it to  
14 you. It's Exhibit 169 and this is an excerpt from the  
15 exhibit.

16 MR. WAITO: I would agree, and I would  
17 expect survival figures to be lower in year five than  
18 they would be in year two.

19 MS. SWENARCHUK: Q. All right. Can we  
20 look now at 552 page E please which have to do with  
21 results from stocking assessments.

22 MR. WAITO: A. I see that.

23 Q. And will you just clarify again  
24 briefly for the Board what stocking measures?

25 MR. FREIDIN: I'm sorry, Ms. Swenarchuk,

1 I am having trouble keeping up. What document are you  
2 referring to now?

3 MS. SWENARCHUK: 552, page E now.

4 MR. FREIDIN: Thank you.

5 MS. SWENARCHUK: Q. And we see from the  
6 previous page that 552E provides results on stocking  
7 assessments which were the second type of assessment on  
8 which the Ministry reported.

9 And stocking has to do with the number of  
10 trees on the given piece of land; is that not a crude  
11 description?

12 MR. WAITO: A. That's correct. That's  
13 correct. It's a measure of the spacial organization,  
14 if I could characterize it that way, of the trees that  
15 you are measuring and the system that is most commonly  
16 used utilizes a four square metre size plot and I think  
17 Exhibit 551 was an attempt to describe what stocking is  
18 about.

19 Q. And the silvicultural groundrules  
20 that we looked at from the FMA yesterday, for example,  
21 had objectives to be reached for stocking?

22 A. That's correct.

23 Q. Objectives and then minimum  
24 acceptable levels as well?

25 A. That's correct.



1 Q. Now, are you aware of at what year  
2 the stocking assessments were made on the various  
3 results that were provided?

4 A. The stocking -- normally, the  
5 information is collected five years after the initial  
6 treatment. So my understanding in discussing this  
7 interrogatory with the districts was that it was  
8 approximately five years.

9 It usually wouldn't be any sooner than  
10 five. Five to six years after treatment when the  
11 stocking information is collected.

12 Q. Okay. And in your view that would  
13 apply to all the stocking results that you provided?

14 A. That's correct.

15 Q. Okay. Now, as you have said on page  
16 D and as we saw yesterday in the groundrules, there is  
17 both the minimum stocking level and shall we say a  
18 desirable stocking level with each treatment; is that  
19 not right?

20 A. Yes, an objective.

21 Q. Objective. And the results on page E  
22 are results for areas that met minimum stocking levels?

23 A. They met the minimum 40 per cent,  
24 that's correct.

25 Q. Now, have you calculated the number

1 of areas that actually met the objective level?

2 A. No, I haven't because I didn't know  
3 what the objective was for each one of those districts,  
4 what their objective level was, so I wasn't able to  
5 calculate it.

6 THE CHAIRMAN: Is the objective level one  
7 that you expect to attain routinely, or is it one that  
8 is sort of a target that would be nice if you got there  
9 but if you didn't get there it's not the end of the  
10 world either?

11 MR. WAITO: That's correct. That is the  
12 correct interpretation.

13 THE CHAIRMAN: It's the latter?

14 MR. WAITO: The latter. The important  
15 number is the minimum 40 per cent.

16 MS. SWENARCHUK: Q. Well, are you  
17 satisfied as a professional, Mr. Waito, when you are  
18 conducting regeneration processes to consistently  
19 obtain only the minimum acceptable standard?

20 MR. WAITO: A. I am satisfied as a  
21 professional if I achieve the "minimum". I actually  
22 don't particularly like the term minimum because, as I  
23 tried to portray or describe in Exhibit 551, that that  
24 minimum standard -- that minimum figure actually  
25 represents a fairly high standard of failure, if I can

1 characterize it that way.

2 So if we were consistently hitting 40 per  
3 cent we are meeting our objective. It would be an  
4 indication though that maybe there would be something  
5 that we could be doing to improve our level of success  
6 and as a unit forester I would be looking to achieve  
7 that. I think routinely we exceed the minimum 40 per  
8 cent.

9 Q. Well, are you in a position to assure  
10 us that consistent achievement of the minimum stocking  
11 level is going to satisfy the requirements -- the wood  
12 supply requirements of the forest production policy?

13 A. Well, I am not in a position to  
14 assure anything. I think the standards are -- have  
15 been developed on the basis of an understanding of what  
16 40 per cent stocking describes.

17 As Mr. Hynard said yesterday, 40 per cent  
18 stocking will ensure that that working group is  
19 maintained and will produce a successfully stocked and  
20 regenerated stand.

21 As to whether achieving the minimum will  
22 achieve our forest production policy targets, I can't  
23 assure whether that will happen or not.

24 Q. Okay, thank you for that. Now, with  
25 respect to Mr. Hynard's statement, is it your evidence

1       then -- because I understood Mr. Hynard's statements in  
2       the context of his own unit, are you saying then that  
3       the achievement of the minimum stocking standard is  
4       sufficient for the future timber harvest across all  
5       units and working groups and is that the position you  
6       are taking?

7                   A. Well, it's difficult to generalize  
8       for the entire Province of Ontario. 40 per cent  
9       stocking at age five will have a certain number of  
10      trees per hectare and in Exhibit 551 I indicated that a  
11      the number of trees per hectare is quite high and if  
12      those trees that are evenly distributed across that  
13      hectare are brought through to rotation age or  
14      maturity, time of harvest, they will certainly provide  
15      comparable volumes on that area of land as what was  
16      originally provided by the natural stand.

17                  Q. All right. Are you assuming then  
18      that if you have 40 per cent stocking at age five you  
19      are going to have 40 per cent stocking at maturity?

20                  A. No, because at maturity you measure  
21      stocking in a different manner. At age five with a 40  
22      per cent stocking you may have a thousand or 1,200, you  
23      may have more, it depends on the distribution.

24                  Let's assume a thousand stems per  
25      hectare. If the thousand stems per hectare are alive



1 and well and growing at age 80, for example, the number  
2 of stems per hectare will be comparable to what the  
3 original or what the previous forest -- what the  
4 previous site supported at maturity.

5 Mature stands, from my experience as a  
6 unit forester, for instance on a jack pine site -- a  
7 typical jack pine site, upland jack pine site, you may  
8 be harvesting between three and four hundred trees per  
9 acre or around a thousand per hectare.

10 I guess the difficulty in trying to  
11 describe stocking and what it means is when you  
12 calculate a figure for stocking at year five it's  
13 difficult to -- you can't compare that stocking level  
14 or the way it's described in year five to the way you  
15 would describe it at year 60 or year 70 where stocking  
16 is described using a basal area methodology.

17 Q. Okay. Well, let's look at the  
18 question this way: Year five is pretty early in the  
19 life of an 80-year plantation; is it not?

20 A. Sure is.

21 Q. And there are many variables that  
22 affect the growth of a plantation over time?

23 A. That's correct.

24 Q. And a good stocking level at the  
25 beginning will not necessarily assure that -- let's say

1       you cannot draw a straight line and say 40 per cent  
2       stocking at year five means "x" stocking at 80 years;  
3       isn't that right?

4                   A.   It's very site dependent and it's  
5       dependent on the variables you alluded to.   So it's --  
6       I think we would be taking a great risk in assuming  
7       that if we had "x" stocking at year five that 80 years  
8       from now that all those trees are going to be alive.  
9       There is certainly -- well, anything can happen in 80  
10      years.

11                   Q.   Right.   I just want to be clear then  
12      that, do I take it from your position about reaching  
13      the minimum, that we should basically not be paying  
14      much attention to the objectives that are set including  
15      the objectives, for example in the silvicultural  
16      groundrules, that in fact the objective that the  
17      Ministry is looking for is that minimum; is that right?

18                   A.   I wouldn't characterize it that way.  
19      We have a minimum that -- and the minimum 40 per cent  
20      particularly for FMAs is tied to obligations within  
21      their agreement.   If they do not meet the minimum, then  
22      they have other obligations to re-treat, so there's a  
23      legal obligation embodied in that as well.

24                   I think it's perfectly acceptable to  
25      have -- you have to have a minimum standard for

1 everything you do and it's perfectly acceptable to set  
2 your sights higher and to aim for a higher objective.  
3 And certainly when we undertake our silvicultural  
4 activities, we are not just aiming at the minimum 40  
5 per cent, we are aiming at the objective.

6 But I am a realistic person, I am not  
7 going to achieve my objective all the time, but I sure  
8 want to achieve my minimum and the minimum is the  
9 cut-off point at which we can judge whether it's a  
10 failure or a success.

11 Q. Just to be clear. You are not in a  
12 position to tell us how achievement of those minima  
13 province-wide would relate to achievement of the forest  
14 production policy goals?

15 A. No, I am not. And the reason I am  
16 not is it would require a fair -- an extensive amount  
17 of growth and yield information that would have been  
18 gathered again on a site-specific basis that could be  
19 used to predict what the volume of the particular  
20 plantation might be based on the spacing or the  
21 stocking arrangement that you have there.

22 As I indicated yesterday, in Ontario we  
23 have -- we certainly have a lack of confidence in  
24 growth and yield data on what I would call managed  
25 stands, so it's difficult to predict in the future what

1 volume we will actually produce.

2 MR. HYNARD: A. When I made those  
3 comments yesterday that you just referred to, Ms.  
4 Swenarchuk, with reference to the minimum stocking  
5 standards it was not in relation to my own unit it was  
6 in relation to the silvicultural Table 1 of the  
7 pineland groundrules that we were discussing at that  
8 time and I think my comments can be applied in general.

9 See, what happens to stands that  
10 originate at lower stocking levels, let's say down  
11 towards the minimum of 40 per cent, if those trees are  
12 free to grow then they suffer lower mortality rates  
13 generally in their early life and so stands as they --  
14 the young stands as they grow older.

15 Q. Excuse me. We were talking about  
16 survival assessments -- stocking assessments as opposed  
17 to free to grow.

18 A. Free to grow includes this concept of  
19 stocking. It includes the fact that we are at a  
20 minimum stocking level or higher and the trees have  
21 freedom to grow from competing vegetation.

22 A stand in that condition generally  
23 speaking will gain stocking as it ages. Stands have  
24 the propensity to gain stocking as they age towards  
25 maturity and then away from full stocking as they age



1 beyond maturity.

2 So that a stand that is only 40 per cent  
3 stocked at its free to grow assessment will have a  
4 higher stocking level at a later age. When you see in  
5 Panel 12 --

6 Q. Thank you, Mr. Hynard, but I was not  
7 talking about free to grow assessment, my questions  
8 were not directed towards that, they were directed  
9 towards stocking assessment only and there is a  
10 distinction.

11 A. Yes. And at 40 per cent stocking, if  
12 you wish to discuss stocking alone, that that young  
13 stand has the propensity to gain stocking as it ages.  
14 Those trees suffer lower mortality rates and they grow  
15 and they fill the stand.

16 So that a stand that is -- that has an  
17 under occupancy rate, if you want, in its early life  
18 will gain stocking as it ages. That is a normal trend  
19 in forests.

20 Q. But not between two and five years;  
21 right, Mr. Hynard?

22 A. You were talking about beyond five  
23 years headed towards 80, the maturity of 80 years and,  
24 yes, stands have that normal propensity.

25 Q. For stocking after five years?

1                   A. Yes. And you will see that stands  
2 that are thinned in Panel 12 to 50 per cent of their  
3 stocking, half of the trees cut out of them, will have  
4 full stocking again before their maturity because of  
5 that simple fact. In other words, a stand that is 40  
6 per cent stocked at age five would be expected to have  
7 far higher stocking levels at its maturity than a mere  
8 40 per cent. Those holes don't remain in that stand,  
9 these trees grow and they fill those holes.

10                  Q. Well, Mr. Hynard, we will have to  
11 judge your comments putting them besides such things as  
12 the survey of artificially regenerated stands and see  
13 how the numbers all stack up.

14                  Mr. Waito, I would like to go to Exhibit  
15 550 which is the interrogatory and response with the  
16 tables attached. Interrogatory No. 15 and attached  
17 tables.

18                  MR. WAITO: A. That is 551, eh?

19                  Q. Sorry, 551. Now, would you turn to  
20 the plantation survival assessment for the Fort Frances  
21 District, please?

22                  A. Okay.

23                  Q. And when you received this data, did  
24 you receive data that would indicate -- for example,  
25 with regard to the red pine listed in the assessment,

1 did you receive data for the site type on which that  
2 pine is regenerating?

3 A. No, we did not.

4 Q. Okay. And would that apply as well  
5 to the jack pine returns?

6 A. That's correct. It would apply to  
7 all of the information.

8 Q. Okay, thank you. So - and I am not  
9 suggesting that there is any deficiency in this, I just  
10 want to be clear - we don't then have the data and you  
11 weren't provided with the data that could indicate to  
12 the Board what site type was involved with each  
13 regeneration method in each district?

14 A. That's right, I don't have the data.

15 Q. All right. Can you turn to 552G,  
16 please. These are the free to grow surveys for the  
17 conifer working groups.

18 A. Yes.

19 Q. And where we see that 69 per cent of  
20 the area treated artificially was free to grow and 71  
21 per cent of the area treated naturally was free to grow  
22 and you said on page 16489 of the transcript that:

23 "It is not really possible to compare the  
24 69 per cent and the 71 per cent because  
25 they are on different site types and they

1 are on different areas."

2 A. That's correct.

3 Q. Now, I take it from your previous  
4 information that you were not actually provided with  
5 site types on which these treatments were carried out?

6 A. That's right. That's correct, I  
7 didn't ask for it and was not provided with it.

8 I communicated with a couple of the  
9 districts, this one in particular because a lot of the  
10 natural -- out of the information on natural  
11 regeneration for the conifer working group was for  
12 Hearst District and I expected, because of my knowledge  
13 of Hearst, that a lot of that -- a lot of the site type  
14 was lowland black spruce, if I could just generically  
15 describe that as a site type, you get much more detail  
16 when you are describing site types.

17 And I enquired of the district if that  
18 was the case and they indicated that yes, most of  
19 their -- well, they confirmed the fact that they were  
20 living in the Clay Belt and that is where the  
21 information came from. So it just confirmed my own  
22 suspicions that it reflected lowland black spruce  
23 conditions.

24 Q. Okay. So that is one site type that  
25 you know about yourself. But presumably you don't know



1       what site types were involved in all the other  
2       treatments that were provided -- for which results were  
3       provided?

4                   A.   That's correct.   I could make an  
5       assumption and I probably wouldn't be too far off.

6                   Q.   But you don't have the data?

7                   A.   But I don't have the detail.

8                   Q.   So my question is this, Mr. Waito:  
9       The forest production policy assumes that you can  
10      compare results of artificial and natural regeneration.

11                   A.   I don't know if it does.   The policy  
12      assumes we can compare --

13                   Q.   Well, the policy assumes 10 cunits  
14      from natural regeneration and 20 cunits from artificial  
15      regeneration.

16                   MS. BLASTORAH:   Mr. Chairman, I don't  
17      believe that is what the policy says.   I think if Ms.  
18      Swenarchuk will review the material provided in Panel 4  
19      the actual comparison is between treated and natural.

20                   MS. SWENARCHUK:   Well, at page 65 of  
21      Panel 4 one of the policy assumptions of the forest  
22      production policy, paragraph 1:   Yields of 10 cunits  
23      per acre from natural regeneration and 20 cunits per  
24      acre from treated areas.

25                   MR. FREIDIN:   And I think the evidence

1 yesterday from Mr. Hynard or Mr. Greenwood was that  
2 naturally regenerated areas were areas which had not  
3 received any treatment, that in fact the areas which  
4 were included in the calculation for the 20 cunits  
5 would include areas which would normally be referred to  
6 and were referred in this panel as being naturally  
7 regenerated, but because they were areas were naturally  
8 regenerated with assistance; i.e. treated either  
9 through scarification or modified harvest, those areas  
10 were included in the 20 cunit average calculation.

11 MS. SWENARCHUK: Q. Well, whatever the  
12 definition of natural and artificial regeneration - and  
13 I take your point, Mr. Freidin - isn't it fundamental  
14 to the regeneration program that of the Ministry that  
15 efforts at artificial regeneration are going to bring  
16 better results than natural regeneration; you are going  
17 to plant the best sites according to the regeneration  
18 policy we saw yesterday, the Armson Report, and the  
19 subsequent development of the FMAs has put more money  
20 into planting, that form of artificial regeneration  
21 particularly, in order to produce greater yields.  
22 Isn't that correct?

23 And we have seen various references in  
24 the evidence to the assumption that we will get better  
25 yields from artificial regeneration techniques.

1                   MR. WAITO: A. I think that is one of  
2                   our objectives.

3                   Q. That's right. And we have asked many  
4                   questions attempting to get data from the Ministry to  
5                   establish whether in fact the results coming back  
6                   support that proposition.

7                   We asked the same question in  
8                   Interrogatory No. 15 and I understand your explanation  
9                   that the natural regeneration results in Interrogatory  
10                  No. 15 are restricted largely to Hearst.

11                  But essentially what I am putting to you,  
12                  Mr. Waito, is that we haven't seen the data to verify  
13                  that assumption that the artificial regeneration  
14                  program is producing much superior results to natural  
15                  regeneration techniques.

16                  A. Well, again, it depends on how you  
17                  are describing results. I have described in the  
18                  interrogatory -- response to the interrogatory results  
19                  were described in terms of stocking or free to grow.  
20                  There is absolutely no volume -- volumetric evidence  
21                  there.

22                  The forest production policy made some  
23                  assumptions, some crude estimates of the volume that  
24                  might be produced and what is the most difficult  
25                  piece -- or the most difficult part of comparing the

1 results that we are getting from various -- as a result  
2 of stocking information or free to grow information and  
3 making an assessment as to whether or not we are  
4 producing the volume that might be listed in a forest  
5 production policy or any other document is you need  
6 growth and yield information to be able to -- for  
7 managed stands, based on different site types, based on  
8 different renewal treatments, you have to have that  
9 growth and yield information to be able to apply a  
10 volume figure to your regeneration successes measured  
11 by stocking in order to assess or predict what kind of  
12 volumes you are going to get at year 40, year 50, year  
13 60 whatever.

14 And, as I indicated earlier, one of our  
15 problems in this province is we have a lack of  
16 comprehensive growth and yield information on managed  
17 stands that we could use to make an estimate of that  
18 volume. So we are unable -- we are unable to  
19 effectively do that.

20 Q. Now, when you say you have a lack of  
21 growth estimates, would you agree with me that there is  
22 within the Ministry a lack of analysis of regeneration  
23 efforts and results to date which would allow you to  
24 understand those growth patterns enough to estimate  
25 future yields?



1                   A. Well, we have been talking about --  
2 we have used the word analysis quite a bit in the  
3 discussion. I am not entirely sure what is meant by  
4 analysis.

5                   You can go to the very rudimentary level  
6 of we planted "x" number of hectares and seeded "x"  
7 number of hectares and planted "x" number of trees and  
8 add them all up and I suppose that is a form of  
9 analysis.

10                  I would agree with you that we have not  
11 done a comprehensive analysis simply -- and one of the  
12 reasons we haven't is we lack some of the fundamental  
13 information that is required to enable such an analysis  
14 to be done, we lack growth and yield information on  
15 managed stands.

16                  MR. GREENWOOD: A. Ms. Swenarchuk, there  
17 is an important point that needs to be understood with  
18 respect to the comment that you made concerning a  
19 comparison of natural versus artificial in terms of the  
20 statement that artificial can provide better results.  
21 It came out yesterday, but I am not sure that it came  
22 out as clear as it may have.

23                  If one was to take a look at where we  
24 have done natural renewal methods in the last, say,  
25 five years, where we have utilized natural regeneration

1 and by this I mean some form of treatment for natural  
2 as opposed to no treatment for natural.

3 Q. Would you include modified cutting in  
4 that?

5 A. Yes, I would.

6 Q. Fine.

7 A. Modified cutting, modified cutting  
8 with shear blading. If you were to go and examine  
9 those areas and then go and examine areas where we have  
10 applied artificial regeneration in the form of seeding  
11 or planting, you would be comparing apples and oranges  
12 in most cases and you may find quite easily, and in  
13 fact I might expect to find, similar stocking and  
14 survival because they are applied most often on  
15 different site types.

16 As we have heard from Mr. Hynard, natural  
17 regeneration methods are used where competition will  
18 not be a problem, tends to be on the lower productivity  
19 sites and planting is more often and quite often  
20 utilized on sites where competition is a problem and,  
21 therefore, we are requiring a larger tree to get the  
22 jump on the competition. So you are not comparing the  
23 same sites at all.

24 If you wanted to provide data to support  
25 what Mr. Waito has said that natural -- sorry, that

1       there's a higher risk to natural, one would have to go  
2       to the same site type that we are applying artificial,  
3       a more productive site type, and apply natural -- a  
4       natural renewal method that and an artificial and  
5       compare those two, otherwise you are not comparing the  
6       same thing at all.

7                   And it's in that case that we are saying  
8       there is a higher risk for natural than there is from  
9       artificial. Not where we are applying natural now, if  
10      we were to move natural onto the more productive sites  
11      where we are applying artificial treatments such as  
12      planting.

13                   Q.   So let me ask you this, Mr.

14      Greenwood:   When, in accordance with the planting  
15      regeneration policy you plant the species on the most  
16      productive sites, is it your position then that you do  
17      that not because it's so productive and you expect to  
18      get the best quality tree in the end, but you do it  
19      only because of the competition?

20                   A.   No, we do it for both reasons. Mr.  
21      Waito said it was one reason. There's a host of  
22      reasons; species, site suitability, productivity,  
23      competition. There's a number of reasons.

24                   Q.   But you do expect to get your best  
25      regeneration results by planting on the most productive

1 sites; is that not correct?

2 A. Given follow-up tending and the other  
3 things that have to take place on that site, yes.

4 MS. SWENARCHUK: Those are my questions,  
5 Mr. Chairman.

6 THE CHAIRMAN: Thank you.

7 Very well, the Board will rise for the  
8 lunch hour. We will be back at two o'clock. At that  
9 time, Mr. Freidin, will you be ready to go ahead with  
10 re-examination?

11 MR. FREIDIN: If we could break until  
12 three o'clock I could finish by five. What time do you  
13 want to get out of here, guys?

14 MR. GREENWOOD: 4:30.

15 MR. FREIDIN: Well, Mr. Chairman, if  
16 everybody can come back at 2:15 and if I am ready go,  
17 we can go, and if I need another 15 minutes, half an  
18 hour, I guess I can ask for that then.

19 THE CHAIRMAN: Very well, that sounds  
20 reasonable.

21 MS. SEABORN: Mr. Chairman, I have about  
22 three minutes worth of question for Mr. Elliott arising  
23 out of his additional evidence on prescribed burns  
24 which I think is --

25 THE CHAIRMAN: Okay. Well, I am sure Mr.



1 Freidin can accommodate three minutes worth.

2 MR. FREIDIN: Can she do that now.

3 Sometimes three minutes of questions from Ms. Seaborn  
4 is --

5 THE CHAIRMAN: We have to rise at 12:15  
6 and I don't want to restrict her to three in case she  
7 wants to take four.

8 MS. BLASTORAH: Mr. Chairman, the only  
9 concern I have is that there may be re-examination  
10 possibly arising out of Ms. Seaborn's questions. So we  
11 may have to ask for a few minutes to consider that at a  
12 later point. Hopefully not.

13 THE CHAIRMAN: Well, why don't we sort it  
14 out this afternoon. We will be back at 2:15.

15 Thank you.

16 ---Luncheon recess taken at 12:10 p.m.

17 ---On resuming at 2:25 p.m.

18 THE CHAIRMAN: Thank you. Please be  
19 seated. We apologize for being delayed.

20 Ms. Swenarchuk?

21 MS. SWENARCHUK: I have one more brief  
22 question which I have discussed with counsel.

23 CONTINUED CROSS-EXAMINATION BY MS. SWENARCHUK:

24 Q. Mr. Hynard -- or Mr. Waito I guess.  
25 The FMA annual reports that include regeneration

1 results, are those available to the public?

2 MR. HYNARD: A. Your question this  
3 morning was: Are annual reports available to the  
4 public, and I promised to find that out for you and the  
5 answer is: Yes, they are available to the public.  
6 They are -- public access to them is guaranteed by the  
7 Freedom of Information Act.

8 I think that were you to make that  
9 request to any district office they would make them  
10 readily available to you.

11 Q. Now, I understood that there would be  
12 district annual reports, that might be a different  
13 thing than an FMA holder's annual report.

14 A. No, annual reports are made by  
15 management unit.

16 Q. Right.

17 A. So you could ask for the annual  
18 report of any management unit and expect to receive  
19 them. If you did not, the Freedom of Information Act  
20 guarantees that to you.

21 Q. And if I specifically asked for the  
22 annual report filed by the FMA holder to the management  
23 unit, I would get that?

24 A. Yes, you would.

25 THE CHAIRMAN: Well, just hold on. I

1 just want to make sure I have got that clear. Sorry,  
2 Ms. Swenarchuk. The FMA holder, which is a company,  
3 files a report with the Ministry--

4 MR. HYNARD: That's right.

5 THE CHAIRMAN: --pertaining to their FMA  
6 unit. The district then compiles what they call a  
7 district annual report?

8 MR. HYNARD: No. Those annual reports  
9 go -- they go to the regions and on to main office and  
10 are aggregated, but the...

11 THE CHAIRMAN: The report filed by the  
12 company residing in the district is available pursuant  
13 to Freedom of Information. Is that what you are  
14 saying?

15 MR. HYNARD: Yes, I believe that to be  
16 the case.

17 MS. SWENARCHUK: That's the Ministry's  
18 position.

19 THE CHAIRMAN: And would that annual  
20 report contain any information that a company might  
21 consider to be of a privileged nature?

22 MR. HYNARD: No, I don't believe so.

23 MR. FREIDIN: Mr. Chairman, I think the  
24 annual report we are talking about are the annual  
25 reports in the timber management planning manual that

1       were referred to and are filled out yearly by either  
2       FMA holder companies or whoever is managing -- the  
3       Crown on Crown management units. Those are the annual  
4       reports that we are talking about.

5                   MR. HYNARD: Yes, that's right.

6                   THE CHAIRMAN: Okay. These aren't the  
7       types of reports that would contain information that a  
8       company would not want its competitors to necessarily  
9       have, or do they?

10                  MR. HYNARD: No, it would not.

11                  THE CHAIRMAN: Okay, thank you.

12                  Ms. Seaborn?

13                  MS. SEABORN: Thank you, Mr. Chairman.

14                  Mr. Chairman, last -- not last week, the  
15       week before, Mr. Elliott had said that it would be  
16       possible for him to file with the Board the prescribed  
17       burn plan for Battersby Creek. Ms. Blastorah provided  
18       that to me, I have had a look at it.

19                  I haven't had copies made of it, in fact  
20       this is the Ministry's library copy. What I would like  
21       to do is make this one copy an exhibit so that there is  
22       one copy for the record.

23                  Ms. Blastorah said that they do have one  
24       other copy that they can have for their own use. So  
25       this isn't a copy that I am going to keep and I don't



1 think it's the intention to make it available to the  
2 other parties, except with the other exhibits, if  
3 someone wants to refer to it.

4 THE CHAIRMAN: Very well. That will be  
5 Exhibit 599. What is the date of that plan?

6 MS. SEABORN: It's called Prescribed Burn  
7 Plan, Northern Region. The prescribed burn name is  
8 Battersby Prescribed Burn, Township Battersby, and the  
9 cover page is dated November 2nd, 1987.

10 THE CHAIRMAN: Thank you.

11 ---EXHIBIT NO. 599: Prescribed Burn Plan Northern  
12 Region: Battersby Prescribed Burn,  
13 Township Battersby, November 2,  
1987 (E.B. Eddy Forest Products).

14 MS. SEABORN: And the company is E.B.  
15 Eddy Forest Products.

16 FURTHER CROSS-EXAMINATION BY MS. SEABORN:

17 Q. Mr. Elliott, in your evidence on the  
18 Battersby prescribed burn, you said that decisions with  
19 respect to that burn were made under the forest  
20 management plan that was in place at that time. Is  
21 that correct?

22 MS. ELLIOTT: A. That's correct.

23 Q. And you also told us that the process  
24 would be quite a bit different today because of the  
25 application of the fish, moose and tourism guidelines?

1 A. As I understand it, that's correct.

2 Q. Now, when I reviewed the prescribed  
3 burn plan that you provided to me and that has just  
4 been exhibited, there was no reference in it under the  
5 value sections to areas of concern or non-timber values  
6 and I take it that that is because this prescribed burn  
7 plan was not prepared under the new timber management  
8 planning process?

9 A. That is partly true, but the rest of  
10 it, in checking the circumstances surrounding the  
11 preparation of that plan, with the exception of one  
12 stretch of Battersby Creek on the west side of the  
13 burn, there were no areas of concern as such at the  
14 time the burn plan was written.

15 Q. Okay, at the time it was written.  
16 Now, do you know that if the same plan had to be  
17 written today and the moose, fish and tourism  
18 guidelines were being applied, would any new areas of  
19 concern arise today in that area because of application  
20 of the guidelines?

21 A. I can't really say whether in that  
22 particular case things would be different. I would  
23 expect they would have been -- would be different.

24 Q. Okay. Now, if things were different  
25 today and within that area some areas of concern were

1 identified, would you agree with me that it would still  
2 be economical to carry out a prescribed burn in that  
3 area?

4 A. Well, that would depend to some  
5 extent on the areas of concern, where they were with  
6 respect to the location of the burn and whether or not  
7 they could be protected from the burn.

8 Q. I think in your earlier evidence when  
9 we talked about this you mentioned the fact that if you  
10 identified a moose corridor within this area you could  
11 set up a sprinkler system and there were measures you  
12 could take when doing a burn to allow you to carry out  
13 a prescribed burn even though you had to take into  
14 account areas of concern?

15 A. Yes, that is true.

16 Q. And with respect to the post-burn  
17 report that would be prepared for Battersby Creek, if  
18 you had identified certain areas of concern, I take it  
19 that the post-burn report that's included in the panel  
20 evidence would also look somewhat different?

21 A. Yes, it would.

22 Q. Thank you.

23 MS. SEABORN: Thank you, Mr. Chairman.

24 THE CHAIRMAN: Thank you.

25 MR. ELLIOTT: Mr. Chairman, I have one

1 more undertaking with respect to my evidence, costs,  
2 and I have those numbers now.

3 THE CHAIRMAN: Very well. Do you want to  
4 put them in now?

5 MR. ELLIOTT: I can put them in now.  
6 What I have here are four sets of figures for four  
7 different times -- for four different times since  
8 beginning of fiscal year 87-88 and it's allocations and  
9 in one case actual expenditure for mechanical and --  
10 mechanical site preparation and prescribed burning.

11 For year start 87-88 for mechanical the  
12 dollar figure is 26,891.9...

13 MS. BLASTORAH: Mr. Chairman, perhaps  
14 rather than having Mr. Elliott read all this into the  
15 record, I do have hard copies of the table that he's  
16 referring to that was I believe prepared in response to  
17 the undertaking.

18 MR. ELLIOTT: That's true.

19 MS. BLASTORAH: And I could just provide  
20 those, I could file it with the Board and provide it to  
21 the parties.

22 THE CHAIRMAN: All right. I think that  
23 would be just as easy. Pursuant to whose questioning  
24 did it arise?

25 MR. ELLIOTT: It was Ms. Seaborn's



1 question.

2 THE CHAIRMAN: I don't know, Ms. Seaborn,  
3 whether you will have had an opportunity to look at  
4 these figures and whether you will want to question  
5 anything on them.

6 MS. BLASTORAH: I believe the undertaking  
7 was actually in response to a question from yourself,  
8 Mr. Chairman, which arose during the cross-examination  
9 from Ms. Seaborn.

10 THE CHAIRMAN: Okay.

11 MS. SEABORN: I will have a look at the  
12 figures, Mr. Chairman. And I don't expect --

13 THE CHAIRMAN: I'll have a look at what  
14 my question was.

15 MS. SEABORN: I am not going to have an  
16 opportunity obviously to ask any questions on the  
17 figures today. I don't know if Mr. Elliott is going to  
18 be back, but I am sure I can speak with Mr. Freidin and  
19 figure out a way to insert something.

20 THE CHAIRMAN: And I guess if I want to  
21 ask a question, I will probably have an opportunity at  
22 some time.

23 MS. BLASTORAH: I expect so, Mr.  
24 Chairman.

25 THE CHAIRMAN: Okay. Let's file that as

1 exhibit -- well, I guess we are up to 600, Exhibit 600.

2 ---EXHIBIT NO. 600: Hard copy of table relating to  
3 costs for mechanical site  
4 preparation and prescribed  
burning.

5 MS. BLASTORAH: (handed)

6 THE CHAIRMAN: When we get to a thousand,  
7 you are not going to do that.

8 MS. BLASTORAH: Only if somebody else is  
9 paying.

10 Mr. Chairman, I have just been asked for  
11 a point of clarification on the table. The figures  
12 given, there's no indication as to whether it's in  
13 thousands or millions or what on the table. Perhaps  
14 Mr. Elliott could just clarify that.

15 MR. ELLIOTT: The dollar figures are  
16 millions and the hectares, which are the area figures,  
17 are just straight hectares.

18 MS. CRONK: Mr. Chairman, I am sorry, but  
19 just before Mr. Freidin goes, I have a point of  
20 clarification that might as well be done as well and I  
21 wonder if we can take the opportunity while we are  
22 here.

23 THE CHAIRMAN: Yes, Ms. Cronk.

24 MS. CRONK: And not remembering  
25 precisely, sir, what the language of your question was,

1 I can't remember whether you asked for estimates of  
2 province-wide costs for these type of activities or  
3 whether these applied just to the area of the  
4 undertaking and I would like to know what we are  
5 looking at.

6 THE CHAIRMAN: I am not sure quite  
7 frankly, Ms. Cronk. I would have to look at either my  
8 notes or the transcript or the other hearing book that  
9 that was in I don't even have with me.

10 MS. CRONK: Sorry, sir. I wonder if Mr.  
11 Elliott perhaps could tell us how he prepared them.

12 MR. ELLIOTT: As I understand it, these  
13 numbers apply to the area of the undertaking.

14 THE CHAIRMAN: Thank you.

15 MS. CRONK: Thank you.

16 Mr. Chairman, I am sorry, because I  
17 wanted to re-examine Mr. Elliott - I know Mr. Freidin  
18 is anxious to get on his feet - but this did arise, I  
19 know tangentially, as a result of questions put by Ms.  
20 Seaborn, but technically they arose from a response to  
21 a question that the panel put and I would ask, under  
22 the circumstances, if I could put a two very quick  
23 questions to the witness just so that I don't have to  
24 deal with this a month from now.

25 THE CHAIRMAN: Very well.

1 MS. CRONK: I assume Mr. Freidin doesn't  
2 object under the circumstances.

3 FURTHER CROSS-EXAMINATION BY MS. CRONK:

4 Q. Mr. Elliott, just apropos of that, do  
5 these figures include total costs then for the area of  
6 the undertaking inclusive of FMA held lands or FMA  
7 governed lands and Crown management units?

8 MR. ELLIOTT: A. Yes, they do.

9 Q. And are they within the total fiscal  
10 period indicated, the year starting 87-88?

11 A. Yes, they are.

12 Q. All within that year period?

13 A. Well, the first line is year start  
14 87-88 and it progresses from there year by year to year  
15 start 89-90.

16 Q. So reading across each column, that  
17 is an annual figure there that is occurring?

18 A. Yes, it is.

19 Q. And can you tell me, sir, what the  
20 source of this information was?

21 A. The source of this information was  
22 information collected from the regions and from the  
23 forest resources group at Sault Ste. Marie.

24 Q. Thank you very much.

25 MS. CRONK: Thank you, Mr. Chairman.



1 THE CHAIRMAN: Thank you.

2 Mr. Freidin?

3 RE-DIRECT EXAMINATION BY MR. FREIDIN:

4 Q. Did you have a nice lunch, Mr.  
5 Hynard?

6 MR. HYNARD: A. Thank you. It was, yes,  
7 thank you.

8 Q. During the cross-examination by Ms.  
9 Seaborn a number of questions arose regarding  
10 untreatable areas including areas where partial cuts  
11 had taken place and the residuals made the area  
12 untreatable.

13 You produced a chart depicting  
14 regeneration and harvest levels including untreatable  
15 lands, it was marked Exhibit 534B and in relation to  
16 that particular document the following questions and  
17 answers were recorded in the transcript at page 17413:

18 "Q. With respect to the brown area, the  
19 heavy residual area, would you agree that  
20 you were carrying out a form of  
21 high-grading with respect to that area?

22 A. Yes, a form. Yes, a form of  
23 high-grading."

24 What do you mean by a form of  
25 high-grading?

1                   A. I am not sure if -- I am not sure  
2                   that I have seen a definition of high-grading. The  
3                   term high-grading refers to a logging practice in which  
4                   only the bigger and better trees are removed from the  
5                   stand and the smaller and poorer trees are left behind,  
6                   at least that is the definition with which I am  
7                   familiar.

8                   In the case that I was describing then  
9                   all of the merchantable softwood component had been  
10                  removed from the stand.

11                  Q. This was a partial cut you are  
12                  speaking of now?

13                  A. Yes, that's right, the section brown  
14                  on that particular chart. All of the merchantable  
15                  softwood component had been removed and all of the  
16                  non-merchantable -- or should I say perhaps  
17                  non-marketable component remained; that is, the type of  
18                  timber for which no markets existed.

19                  Now, that is slightly different...

20                  Q. And in that case are you talking  
21                  about species?

22                  A. If I recall correctly, at that time I  
23                  was referring to species and not size and not grade,  
24                  strictly species. And so in that sense it's only a  
25                  form of high-grading, it doesn't conform exactly to the

1 definition that I just gave you.

2 Q. And in that latter form, what you  
3 called a form of high-grading, that partial cutting, is  
4 that an acceptable timber management practice?

5 A. Well, yes, it is for the reasons that  
6 I have described in my direct evidence.

7 Q. And in the case of the first  
8 high-grading where you said you went in and you just  
9 took the best of certain trees, were you referring to  
10 the best of a certain species of trees?

11 A. Yes. The practice of high-grading  
12 with which I am familiar they are talking about taking  
13 the best quality, the best individual trees of that  
14 particular species and in the case on that chart, the  
15 brown area, I was referring to something different.

16 Q. Thank you. Again for you, Mr.  
17 Hynard. In answering questions from Ms. Seaborn you  
18 made the statement that, and I am quoting -- this is  
19 from page 17431 and 32 of the transcript:

20 "The groundrules of an FMA are a lot more  
21 that simply silvicultural  
22 specifications."

23 Would you explain firstly what you meant  
24 by silvicultural specifications in that context?

25 A. Yes. In that context I was referring

1 to what is known as Table 1 within the FMA groundrules.  
2 It is only one table, one portion of the entire  
3 groundrules.

4 Q. And that -- if we looked at the  
5 Exhibit 513 which was the FMA agreement, it was the  
6 subject matter of some discussion, if we turn to the  
7 groundrules we find that that in fact is Schedule C?

8 A. Yes, that is Schedule C which  
9 encompasses everything between pages 1 to 21 of that  
10 schedule. The silvicultural specifications which I  
11 just referred to as Table 1 refers only to pages 14 to  
12 19 of that schedule.

13 Q. And just for clarification, am I  
14 correct that the silvicultural specifications which are  
15 part of the groundrules of FMAs, as you have just  
16 described it, are those silvicultural specifications  
17 the same as silvicultural groundrules that we find in  
18 timber management plans in Table 4.11?

19 A. Yes, they are.

20 Q. Thank you.

21 Mr. Waito, Ms. Seaborn asked you - where  
22 are you, Mr. Waito? There you are - asked you some  
23 questions regarding the co-ordination of site prep and  
24 seed crops. The Ministry response in an interrogatory  
25 was that the Ministry does not restrict harvest to



1 coincide with the seed crop.

2 Now, after putting that answer to you she  
3 then asked you whether it was feasible to attempt to  
4 co-ordinate your site prep with the seed crop and your  
5 response was, and I am quoting:

6 "It's usually not possible to predict  
7 what the seed crop will be that early in  
8 advance of the harvest and certainly of  
9 the site preparation. So it's not, in  
10 most cases, feasible to try and coincide  
11 the harvest and subsequently a site  
12 preparation with the occurrence of a  
13 possible cone crop that particular year.

14 Q. So it wouldn't be feasible to  
15 co-ordinate the site preparation with the  
16 seed crop?

17 A. That's correct."

18 My question is: What did you mean by  
19 feasible in that particular answer?

20 MR. WAITO: A. Well, I hope I didn't  
21 leave the impression that it was categorically  
22 impossible to do some co-ordination and I think that  
23 is, when I talk about feasible, what I was trying to  
24 describe was a situation where a particular species had  
25 an annual cone crop, it may not be possible on an

1 annual basis, may not be feasible to co-ordinate the  
2 harvesting and site prep to correspond with the very --  
3 with the situation where the cone crop occurred in a  
4 very short period of time. For instance, I am thinking  
5 of white spruce.

6 On the other hand, it certainly is  
7 possible to co-ordinate site preparation to a certain  
8 extent with cone crop, for instance, when regenerating  
9 lowland black spruce and in that -- when we are talking  
10 black spruce, we are talking different silvics and we  
11 have a cone crop that may persist over a number of  
12 years which would provide seed over a longer period of  
13 time than just over a very short period of time like we  
14 might have with white spruce. And, therefore, it is  
15 possible when dealing with black spruce to do some  
16 co-ordination of site preparation and, to a certain  
17 extent, some co-ordination of the harvesting.

18 Those -- I say it's possible, and it is  
19 actually done because we rely on seed source when  
20 regenerating black spruce to provide the seed to  
21 regenerate the area.

22 So when I refer to feasible, really in  
23 the back of my mind I didn't want to categorically  
24 state that you couldn't do it, but there are certain  
25 circumstances where it is possible to do that.

1 Q. And you indicated that the cone crop  
2 for the black spruce would persist over a long period  
3 of time and you used an example actually of lowland  
4 black spruce.

5 Ms. Seaborn asked you about delaying the  
6 site preparation for a couple of years and her exact  
7 question was, and I am quoting:

8 "Assuming you delayed the site  
9 preparation for a couple of years, for  
10 example, is that feasible?"

11 And your response was, and I am quoting  
12 again:

13 "I am thinking of a situation where we  
14 are attempting to regenerate black spruce  
15 through modified harvest cut and in that  
16 situation it might -- it would be  
17 feasible to delay site presentation until  
18 you possibly had a good seed crop.

19 Normally with black spruce, however,  
20 although the cropping is periodic because  
21 the cones are semi-serotinous and there  
22 is usually a certain amount of seed  
23 contained in the trees on an annual  
24 basis, site preparation usually takes  
25 place immediately after the harvest to

1 take advantage of whatever seed is  
2 available and on those kinds of sites a  
3 suitable seedbed can remain in place for  
4 a number of years."

5 Now, having regard to what we were  
6 talking about, and that was the timing of site prep  
7 with seed crops, what is the significance of that  
8 latter observation, that a suitable seedbed can remain  
9 in place for a number of years?

10 A. I think the significance of that is  
11 embodied -- the seedbed is not going to remain in place  
12 forever. Once the site has been harvested and site  
13 prepared the natural ecology of the site will work to  
14 offset the benefits of the site preparation which was  
15 intended to provide a suitable seedbed. So that the  
16 seedbed may not -- in most cases wouldn't exist for 10,  
17 15, 20 years down the line.

18 The immediate benefits of that site  
19 preparation -- the site preparation is designed to  
20 provide seedbed to hopefully capture the regeneration  
21 potential of the standing timber within three to five  
22 years and the normal recommended leave period for  
23 natural regeneration of black spruce from strip cutting  
24 is three to five years.

25 Q. All right. When you say that the



1 seedbed can remain in place for a number of years, does  
2 that mean a number of years from the time you site  
3 prepare?

4 A. That's correct.

5 Q. And if you site prepare right after  
6 harvest and the seedbed remains in place for a number  
7 of years and you have a cone crop, as you indicated,  
8 which would persist over a long period of time, the  
9 long period of time is what, from the time of -- after  
10 you harvest when you leave your leave blocks, what do  
11 you mean that the cone crop would persist over a long  
12 period of time? What period of time are you talking  
13 about?

14 A. Well, I am putting it in context of  
15 taking advantage of the site preparation and I would be  
16 thinking three to five years. Of course, the standing  
17 mature trees will continue to produce seed on an annual  
18 basis or semi-annual basis until they are harvested,  
19 but the context that I was thinking of was in order to  
20 take advantage of the site preparation that was done.

21 So that three to five-year regeneration  
22 period which you would try to achieve your regeneration  
23 in.

24 Q. So in that case you could site  
25 prepare immediately after harvest and you could have a

1 seed source from the remaining stands, the leave blocks  
2 over that period of time that the seedbed would remain  
3 in place, but you said could be I think three to five  
4 years?

5 A. That's correct.

6 Q. Thank you. Again for you, Mr. Waito.  
7 During the cross-examination by Ms. Cronk she asked you  
8 a number of questions regarding when natural  
9 regeneration as opposed to artificial regeneration  
10 might be employed. And in regard to that the following  
11 questions and answers are recorded in the transcript  
12 beginning at, I believe, 17295.

13 MS. CRONK: Sorry, could I have the page  
14 number?

15 MR. FREIDIN: 17295 -- actually to 297 is  
16 where that subject matter is discussed.

17 Q. The question and answer were as  
18 follows:

19 "Q. Would it be fair to suggest that  
20 there are some sites that present with  
21 characteristics which make it clear that  
22 natural regeneration is the only  
23 appropriate way to go or certainly out  
24 distancing any other options, that it is  
25 the most appropriate?

1 A. That's correct.

2 Q. All right. And would you agree with  
3 me that in some situations it can be that  
4 black and white looking at a site?

5 A. It could almost be that black and  
6 white."

7 My question for you is: Why did you  
8 qualify your answer to Ms. Cronk's question by saying  
9 it could almost be that black and white?

10 A. Natural regeneration is -- or the  
11 probability of securing successful natural regeneration  
12 levels is extremely site-specific and, again, we are --  
13 in the back of my mind I was thinking about the black  
14 spruce scenario.

15 At first glance, just looking at a pure  
16 black spruce stand, simply the fact that it is pure  
17 black spruce would suggest that art -- or natural  
18 regeneration may be the best way to go. However, we  
19 require more than just standing black spruce to provide  
20 a seed source, we must also have the correct site type  
21 that the seed will then fall on to have good  
22 regeneration.

23 So at first glance one would think of  
24 natural regeneration, but one would have to look at the  
25 very site-specific information or have to consider a

1 lot more factors than just what you might see at first  
2 glance.

3 Q. Okay. Now, Ms. Cronk continued and  
4 she said:

5 "All right. What I am going to suggest  
6 to you then, that in this whole  
7 discussion of choosing between an  
8 appropriate regeneration method that it  
9 would be appropriate conceptually to  
10 regard it as a continuum, such that on  
11 one end we have sites where clearly  
12 natural regeneration would not be  
13 appropriate and would bear little chance  
14 for success and, on the other end of the  
15 continuum, there would be sites which  
16 Command natural regeneration. Would you  
17 agree thus far?

18 A. Yes, I would agree with that."

19 Now, having regard -- or having qualified  
20 your earlier evidence as you just described, what did  
21 you mean when you agreed that the sites would command  
22 natural regeneration, and I'm I guess seizing on the  
23 word command. What did you mean by that?

24 A. Well, command may be -- I agreed with  
25 it. Command may be a little strong. I think it -- I



1 understood it to mean -- command to mean those  
2 particular sites would, because of the site conditions  
3 that I just described, would offer a very high  
4 likelihood of getting good successful natural  
5 regeneration. That was my interpretation of command.

6 Q. Thank you. Mr. Clark, you are  
7 nearing the end of your trial.

8 At page 17463 of the transcript you  
9 described the Lake of the Woods fisheries studies as  
10 being a comprehensive socio-economic analysis and you  
11 described the socio-economic impact analysis of the  
12 Lady Evelyn Wilderness Park proposal as being  
13 comparable.

14 Can you explain why comprehensive  
15 socio-economic assessments or impact analysis were done  
16 in those cases but are not, based on your information,  
17 done in the context of preparing timber management  
18 plans?

19 MR. CLARK: A. Well, the one I am most  
20 familiar with is the Lady Evelyn Smooth Water  
21 socio-economic impact analysis and I think, as I  
22 pointed out in my evidence, those studies were really  
23 undertaken at a somewhat, if you want higher level or  
24 one step before we get into resource management  
25 decision-making or planning.

1                   So that those studies, but particularly  
2     the Lady Evelyn Smooth Water study, was done at the  
3     time that we were doing strategic land use planning and  
4     more particularly district land use plans and we were  
5     dealing with significant allocation decisions which  
6     would then provide a framework within which timber  
7     management plans and other resource management plans  
8     would be undertaken.

9                   And so I think the important thing here  
10    is the context was one in which we were making fairly  
11    broad based allocation decisions over a fairly large  
12    geographic area concerning a variety of uses. And just  
13    emphasize once again, those studies provided background  
14    information which formed an important component of the  
15    information that was used in developing the strategic  
16    and the district land use -- the district land use  
17    guidelines in particular which, when complete, as we  
18    pointed out in other evidence, then provided the  
19    context for more detailed and more operational resource  
20    management plans.

21                  Q. Now, Mr. Hanna cross-examined you  
22    regarding different techniques for dealing with  
23    socio-economic effects and you indicated that the  
24    Ministry uses tools that you felt, and I am quoting:

25                         "...were dictated by the particular

1                   problem we were dealing with and the  
2                   particular circumstance in each situation  
3                   that we are in."

4                   And you referred to hiring consultants to  
5                   deal with socio-economic impact assessments, you  
6                   referred to the study again on Lake of the Woods as  
7                   perhaps being the most obvious one.

8                   Now, at page 17460 you referred to  
9                   evidence in Panel 10 regarding the Lac Seul ferry  
10                  proposal and in reference to that proposal you stated  
11                  that in that proposal, and I am quoting:

12                  "There was a considerable amount of data  
13                  collected and analysis done that was  
14                  aimed at providing the kind of  
15                  information we thought or the company  
16                  thought decision-makers would need to  
17                  arrive at a sensible conclusion."

18                  Now, in relation to the Lac Seul example,  
19                  Mr. Clark, what was the data and the analysis that you  
20                  were referring to?

21                  A. Well, a great deal of the data and  
22                  analysis that I was referring to, I guess the most  
23                  specific of that data had to do with the costs of  
24                  various road options and, in some cases, water body  
25                  crossings whether it be Lac Seul in the form of a ferry

1 or bridge crossings.

2 So the data in that particular case  
3 related to the costs of actually developing road  
4 options.

5 Q. I believe your evidence indicated  
6 there were some comparative analysis as to the costs of  
7 the various roads?

8 A. That's correct. It was done  
9 specifically for the purposes of looking at the costs  
10 of building road and I should also highlight the fact  
11 that it was also dealing with the costs of delivering  
12 wood to the mill in Hudson.

13 Q. Now, at page 17461 in response to a  
14 question asked by the Chairman you responded, and Mr.  
15 Kennedy agreed with you that:

16 "There was no TMP -- no timber management  
17 plan that you could think of where a  
18 consultant from outside the Ministry was  
19 hired to deal with socio-economic  
20 impacts."

21 And you recall giving that evidence?

22 A. Yes, I do.

23 Q. Were consultants from outside the  
24 Ministry used to do any of the analysis that you just  
25 referred to in the Lac Seul plan?



1                   A. Yes, and I did recall that after I  
2                   led that or responded to that particular question. In  
3                   that particular instance, the company McKenzie Forest  
4                   Products had put together the background information,  
5                   the financial analysis of various road options and wood  
6                   delivery costs.

7                   In that particular instance, the regional  
8                   office of the Ministry of Natural Resources hired an  
9                   outside consultant who had a long-term background in  
10                  timber management to review the figures that had been  
11                  put together by the company and to make recommendations  
12                  as to their accuracy to us.

13                  Q. Now, is that type of analysis,  
14                  therefore, different from what you characterize as a  
15                  socio-economic analysis?

16                  A. Well, I think when we -- sometimes  
17                  when we talk -- I think it's a component of  
18                  socio-economic analysis. I think you can characterize  
19                  socio-economic analysis in a variety of ways. I think  
20                  there is a tendency to look at it as a fairly  
21                  comprehensive technique that looks at a variety of  
22                  effects and costs and benefits.

23                  This certainly could be viewed as a  
24                  component of a more broader -- a more broadly based  
25                  study that deals with socio-economic effects. I would

1 certainly say that it would be viewed as a form of  
2 socio-economic analysis, but fairly narrowly defined.

3 Q. Not the same type of study that you  
4 described as being a comprehensive socio-economic  
5 impact analysis like the Lady Evelyn Smooth Water?

6 A. Yes. And I think that is the  
7 distinction I would make in that, that particular  
8 study, the objective was more broadly based, the range  
9 of potential effects costs and benefits that we looked  
10 at were far broader simply because of the nature of the  
11 problem that we were dealing with.

12 Q. Thank you. Staying with you, Mr.  
13 Clark. During the cross-examination by Mr. Hanna there  
14 was a discussion between him and you about  
15 misinformation and distrust amongst the parties leading  
16 to conflict.

17 In response to the suggestion that  
18 dissatisfied people can go beyond the district manager  
19 to get satisfaction, you stated, and I am quoting:

20 "This whole business of accountability,  
21 you have to be careful about documenting  
22 the procedure, ensuring that you have  
23 good material from which to make  
24 decisions because that is exactly what  
25 happens."

1                   Now, in the context of that discussion  
2           the following questions and answers were recorded at  
3           page 17548.

4                   "Q.   So if I can --"

5                   This is Mr. Hanna. After some discussion  
6           between you and the Chairman as well as more discussion  
7           with Mr. Hanna. Mr. Hanna says:

8                   "So if I can capsule what you have just  
9           said, Mr. Clark, one way to reduce  
10          misinformation and distrust is to clearly  
11          document all decisions.

12                  A.   That is correct.

13                  Q.   Is that the essence of what I just  
14          heard?

15                  A.   Yes.

16                  Q.   Would you agree with me then that  
17          this could be provided by providing  
18          explicit detailed information to the  
19          public on how these decisions are  
20          reached?

21                  A.   I believe that's true."

22                  And my question is: Is explicit detailed  
23          information provided to the public about how the  
24          decisions that you were speaking about are actually  
25          reached?

1                           A. Could you rephrase the last part, Mr.  
2       Freidin?

3                           Q. Perhaps let me ask the question and  
4       if you have difficulty with a certain part tell me  
5       which part it is. Is explicit detailed information  
6       provided to the public about how the decisions that you  
7       were speaking about are actually reached?

8                           Did you have certain types of conflicts  
9       in mind when you gave those answers?

10                          A. Yes.

11                          Q. What type of conflicts did you have  
12       in mind when you gave those answers?

13                          A. I'm sorry, I am confused, Mr.  
14       Freidin. I don't understand.

15                          If what you mean - and I am sorry if I am  
16       confused - is the kind of analysis that you have been  
17       talking about and the kind of information that would be  
18       generated through that analysis the kind of explicit  
19       information that I am referring to when I was referring  
20       to in responding to Mr. Hanna, I would say yes.

21                          Q. Let me just leave that one, I may  
22       come back to that one.

23                          A. Sorry.

24                          Q. Mr. Greenwood, just a couple of  
25       matters of I think clarification. On page 17380 Ms.



1 Seaborn referred you to your evidence and made  
2 reference to whole-tree harvesting. And if I might, I  
3 would just like to quote where that happened.

4 "Mr. Greenwood, in Panel 10 you spoke  
5 about the potential environmental effects  
6 of reduced soil fertility through biomass  
7 removal and redistribution?

8 MR. GREENWOOD: A. That's correct.

9 Q. And in your evidence you indicated  
10 that whole-tree harvest warrants careful  
11 consideration and probably site  
12 amelioration if applied on a large scale  
13 or if stands are managed on a short  
14 rotation basis?

15 A. That's correct."

16 Whole-tree

17 harvesting was not one of the subject  
18 matters that you indicated was practiced in Ontario  
19 when you gave your evidence in Panel 10. Could you  
20 explain why you used it in that context, or whether it  
21 was a mistake?

22 MR. GREENWOOD: A. Could you repeat the  
23 quote again, please?

24 Q. In your evidence and I think - let me  
25 go back.

1 "Mr. Greenwood, in Panel 10 you spoke  
2 about the potential environmental effects  
3 of reduced soil fertility through biomass  
4 removal or redistribution.

5 A. That's correct.

6 Q. And in your evidence you indicated  
7 that whole-tree harvest warrants careful  
8 consideration and probably site  
9 Amelioration if applied on a large scale  
10 or if stands are managed on a short  
11 rotation basis.

12 A. That's correct."

13 Let me ask the question: Is whole-tree  
14 harvesting a method which is employed in Ontario?

15 A. No, it is not.

16 Q. Thank you. On page 552 of the  
17 witness statement you make a distinction between  
18 whole-tree harvest and full-tree logging; do you?

19 A. Yes, I do.

20 Q. Do some people use them -- do some  
21 people use those phrases interchangeably?

22 A. Yes, they do. And, in fact, in the  
23 earlier literature many people were referring to  
24 whole-tree logging in the way that we now refer to  
25 full-tree logging.

1 Q. Okay. Now, on page 552 of the  
2 witness statement it's the Provincial Review from the  
3 Tyranite prescribed burn in the Kirkland Lake District.  
4 In the first paragraph under the heading: Background,  
5 there's a reference to whole-tree logging, again,  
6 referring to an area in the Kirkland Lake District.

7 Based on the answer you just gave, are  
8 you able to comment as to whether the reference to  
9 whole-tree logging should be interpreted as full-tree?

10 A. Yes, it should.

11 Q. Mr. Hynard, commencing at page 17620  
12 of the transcript Mr. Hanna asked a number of questions  
13 whether stand conversions from hardwoods or mixed wood  
14 stands to softwood stands have a potentially negative  
15 impact on moose when practised on an extensive basis.

16 Now, that question led to considerable  
17 discussion regarding stand conversion. By the way,  
18 that first line of questioning I think was to Mr. Hogg  
19 and that question led to considerable discussion  
20 regarding stand conversions, regarding Mr. Hogg's view  
21 as a wildlife biologist, comments from Mr. Kennedy and  
22 you regarding regeneration efforts, and some discussion  
23 of the role that the silvicultural system might play in  
24 that regard.

25 Now, at page 17630 at the transcript you

1 indicated to the Chairman, and I am quoting:

2 "It's probably a good idea to talk for a  
3 moment about stand conversion and what it  
4 really means. I am not sure really --"

5 And you were cut off by Mr. Hanna who  
6 went on to another topic.

7 Now, Mr. Hynard, could you please advise  
8 us now, if you can recall, why you thought it would  
9 probably have been a good idea to talk at that stage  
10 about stand conversion and what it really means. And,  
11 in addition, could you perhaps indicate the information  
12 that you wished to convey about stand conversions at  
13 that time?

14 MR. HYNARD: A. Well, the term stand  
15 conversion as it's used in Ontario really means working  
16 group conversion; the harvest of a stand of one working  
17 group and the replacement through renewal operations of  
18 that stand by another working group.

19 It does not mean the total replacement of a species or  
20 forest association, it means change in working group.  
21 It may be netirely the same forest association that is  
22 replaced, but the mix will be entirely different.

23 Let me give you an example before I  
24 answer the first part of your question. If, for  
25 example, a stand of poplar 50 per cent, mixed with jack



1 pine 20 per cent, white birch 20 per cent, and balsam  
2 fir 10 per cent was harvested and the prescription was  
3 for conversion to the jack pine working group, the end.  
4 result might be something no different than jack pine  
5 60 per cent, poplar 20 per cent, white birch 10 per  
6 cent, balsam 10 per cent.

7 In other words, the same species are  
8 there but the mix has changed. The dominant species is  
9 now jack pine, the working group is now jack pine.  
10 Similarly, the ground vegetation may be the same  
11 following that treatment and that so-called conversion  
12 as it was in the previous stand.

13 The first part of your question was: Why  
14 did I feel it was important at that time. I felt it  
15 was important because the spectre that Mr. Hanna had  
16 drawn in my mind was of the replacement of mixed  
17 wood -- diverse mixed wood stands with absolutely pure  
18 conifer and nothing else is in fact a fallacy, it does  
19 not occur. And yet he was placing that question to Mr.  
20 Hogg: Would the effect of such action or results be  
21 detrimental to wildlife.

22 And I felt it was important to understand  
23 that, because it would affect the importance given to  
24 Mr. Hogg's answer.

25 Q. Thank you. Mr. Clark, let's go back

1 and deal with this question once more...

2 THE CHAIRMAN: Embarking on a lawyers'  
3 nightmare once again, eh?

4 MR. FREIDIN: Keeps me up at night, Mr.  
5 Chairman. I am doing this on purpose, Mr. Chairman,  
6 just for Mr. Clark's benefit.

7 Q. Mr. Clark let me go back and read to  
8 you the discussion between Mr. Hanna and you about  
9 misinformation and distrust leading to -- pardon me,  
10 misinformation and distrust amongst the parties leading  
11 to conflict. You made the statement:

12 "This whole business of accountability,  
13 you have to be careful about documenting  
14 the procedure and ensuring that you have  
15 good material from which to make  
16 decisions because that is exactly what  
17 happens."

18 Can you tell me what kind of decisions  
19 were you thinking of when you gave that evidence?

20 MR. CLARK: A. Well, it's some time  
21 since we discussed that, but as I recall we were  
22 talking about conflicts that might arise in the course  
23 of timber management planning where there was some  
24 necessity to arrive at a decision concerning two or  
25 more parties and so we were talking about the need to

1 sometimes make tradeoffs or to deal with conflicts that  
2 arose in timber management planning.

3 Q. And when those kind of conflicts  
4 arise in timber management planning, do those kind of  
5 conflicts get documented in the timber management  
6 planning process?

7 A. Well, yes, they do.

8 Q. Where?

9 A. We have commented at length about the  
10 area of concern planning process and supplementary  
11 documentation associated with that and that would be  
12 the normal process for documenting those issues.

13 Q. So when later you indicated to Mr.  
14 Clark -- pardon me, to Mr. Hanna that documenting all  
15 decisions can be provided and distrust can be avoided  
16 by providing explicit detailed information to the  
17 public on how these decisions are reached, were the  
18 decisions that you were referring to in that context  
19 the same decisions you just described to me?

20 A. Yes, I was. I was talking about  
21 decisions that would be made in the course of timber  
22 management planning.

23 Q. Thank you. Mr. Hogg, where are you?  
24 There you are. In answering questions regarding stand  
25 conversion Mr. Hanna asked whether there was any

1 reference to the issue in your evidence.

2 I believe he was suggesting that you had  
3 not dealt with the issue in your written material at  
4 all and you referred him to page 756 to which I ask  
5 that you turn at the present time.

6 MR. HOGG: A. I have it.

7 THE CHAIRMAN: What page is that, Mr.  
8 Freidin?

9 MR. FREIDIN: 756.

10 THE CHAIRMAN: Thank you.

11 MR. FREIDIN: Q. Now, you referred him  
12 to one sentence on that page which begins in the fourth  
13 line on the page which states:

14 "More wide spread and longer term changes  
15 in the wildlife community may result if  
16 the regenerated forest is markedly  
17 different over a broad area from the  
18 forest that preceded harvest."

19 That is what you quoted to him. Can you  
20 tell me: Does the next sentence address the same  
21 topic?

22 MR. HOGG: A. Yes, it does.

23 Q. All right. Could you read it,  
24 please?

25 A. "Concerns in this area focus on



1 changes in the relative abundance of  
2 Coniferous versus deciduous growth and  
3 creation of an even-aged forest where an  
4 uneven-aged forest predominated prior to  
5 harvest."

6 And, additionally, I think I pointed out  
7 at the time that what we were reading here was the  
8 summation of things that appear earlier in the paper.  
9 And in fact, in looking back to pages 752 and 753 there  
10 is a little further discussion of that whole issue of  
11 stand conversion and in the heat of the moment I went  
12 to the most accessible item which was the summary  
13 comment, but page 752 and 753 also address the issue.

14 Q. All right. Now, I want you to just  
15 keep that particular passage on page 756 in front of  
16 you and I want to refer you to a portion of the  
17 transcript, which I will read to you, which starts on  
18 17620.

19 Starting on that page you were asked  
20 whether stand conversion from hardwood or mixed wood  
21 stands to softwood stands have a potential negative  
22 impact on moose when practised on an extensive basis.  
23 You described that situation as, and I am quoting your  
24 words:

25 "Hypothetical, potentially possible..."

1 And you also stated that:

2 "...it could happen in theory."

3 Can you tell me, does the situation which  
4 you described in those words; hypothetical, potentially  
5 possible and could happen in theory, bear any  
6 relationship to the situation described in the sentence  
7 that you have just read to us on page 756?

8 A. Yes, directly. Yes that's correct.

9 Q. When you say directly, what do you  
10 mean?

11 A. I mean that that statement on 756  
12 refers to this hypothetical. That in theory there  
13 could be a shift -- dramatic shift from mixed wood to  
14 softwood of such an extent that it might limit the  
15 productivity of the area as habitat for moose.

16 THE CHAIRMAN: Does that in fact occur  
17 often, Mr. Hogg, in the real world?

18 MR. HOGG: I, in my personal experience,  
19 have not seen that effect. Where you do see it, I  
20 think, or can see it would be in situations where it  
21 occurs naturally. That is most likely where you would  
22 be most effective at doing that.

23 The jack pine sand flat that you  
24 regenerate to pretty much pure jack pine, that is the  
25 situation in which moose productivity -- the habitat

1 may not be very productive for moose. But this large  
2 scale conversion that we talk about here is a  
3 hypothetical at this point and Mr. Hynard spoke to why  
4 that effect might not be realized.

5 MR. GREENWOOD: Mr. Chairman, the site  
6 variability that we have within the area of the  
7 undertaking and the intensity of silviculture that we  
8 carry out precludes that type of shift taking place.

9 It has taken place in parts of the world  
10 where that is not the case, where the site is more  
11 uniform and the degree or intensity of silviculture has  
12 put the area into management for pure conifer.

13 THE CHAIRMAN: Thank you.

14 MR. FREIDIN: Q. A question for you, Mr.  
15 Elliott. In discussing the post-burn report of the  
16 Battersby burn which is contained in the statement of  
17 evidence you said, and I am quoting:

18 "That they were running out of time in  
19 the fire season and that was the reason  
20 they chose the low end of the  
21 prescription to go ahead."

22 Could you please explain what you mean by  
23 the term low end of the prescription?

24 MR. ELLIOTT: A. Well, when a  
25 prescription is developed for prescribed burning there

1 are a range of the weather conditions and fuel  
2 conditions that are built into the prescribed burn plan  
3 and they range from a low value to a high value and  
4 that is the nature of the prescription that is written  
5 into the plan.

6 Any value that falls within that range is  
7 fine as far as conducting the prescribed burn goes and  
8 the prescription is based on the client needs for fuel  
9 reduction and duff reduction. I talk about the low end  
10 of the prescription, it was chosen to do that burn, the  
11 conditions that were within the prescription, but at  
12 the bottom end of the scale.

13 Q. And in relation to the same --

14 MRS. KOVEN: Excuse me. The high end are  
15 ideal weather conditions?

16 MR. ELLIOTT: No, the whole range of  
17 weather conditions are ideal to do the prescribed burn.

18 MR. FREIDIN: Q. So what is it that  
19 causes one part of the range to be called the low end  
20 of the prescription and the other end to perhaps be  
21 called the high end of the prescription?

22 MR. ELLIOTT: A. I guess it's just a  
23 numerical value that is used to describe the build-up  
24 index, for example. Might range between 25 and 40. 25  
25 would be the low end and 40 would be the high end.



1 Q. So if you had moisture, for example,  
2 and you had a range from 1 to 10, the low end of the  
3 prescription - and you could burn anywhere between 1  
4 and 10 - 1 would be the low end of the prescription, 10  
5 would be the high end of the prescription?

6 A. In that term, yes.

7 Q. In relation to the same discussion  
8 Mr. Martel asked you the following question. He says:

9 "I look at the fact that if the  
10 prescribed burn was 34 per cent under  
11 budget, Ms. Seaborn said, and is there a  
12 possibility that in fact someone was  
13 being chintzy on the preparation of the  
14 burn and bringing it under cost but in  
15 fact not achieving what the goals were?  
16 Is it a possibility?"

17 You responded that:

18 "This would be..."

19 And I am quoting you:

20 "...a very remote possibility."

21 My question for you is: Is burning at  
22 the low end of the prescription necessarily cheaper  
23 than burning at the high end of the prescription?

24 MR. ELLIOTT: A. No, it's not.

25 Q. Can you offer any opinion then as to

1       why the Battersby prescribed burn might have come in  
2       under budget?

3                       A.   Yes.   In that case it rained the  
4       evening of the ignition and helped with the mop-up  
5       costs.

6                       Q.   And because it rained, the mop-up  
7       costs were reduced for what reason?

8                       A.   Because the moisture from the rain  
9       helped extinguish the fire and reduced the manpower and  
10      equipment requirements to extinguish the fire.

11                      Q.   Thank you.  There's an answer for  
12      everything.

13                      MR. MARTEL:  Well, it didn't answer why  
14      it wasn't as successful, I can't recall, as it might  
15      have been.  I think the indication that I was looking  
16      for at the time was, I don't think it proved to be -- I  
17      think it was what Ms. Seaborn was talking about - it  
18      wasn't as successful as it might have been I think.

19                      And what I was trying to get at, because  
20      they underfunded or didn't maybe spend as much - and I  
21      can't recall the answer as to why it wasn't as  
22      successful as it had hoped to be.

23                      MR. ELLIOTT:  Well, in that case the  
24      burning at the low end of the prescription did not  
25      remove as much duff as they had hoped in some parts of

1 the burn. It's as simple as that, but it was  
2 acceptable.

3 THE CHAIRMAN: We would be interested in  
4 knowing how you arranged for the rain that night.

5 MR. ELLIOTT: Lucky.

6 MR. FREIDIN: Q. Mr. Hynard, during the  
7 discussion on stocking - and I think we will be getting  
8 a little more current, these questions I think come  
9 from the last two days now - during discussion on  
10 stocking you made the comment that the poorer the site  
11 the more likely you are to get higher stocking.

12 Could you explain what you meant by that  
13 or why that is the case?

14 MR HYNARD: A. That statement isn't as  
15 expansive as it perhaps should have been. What I had  
16 in mind there was species -- softwood species like jack  
17 pine and spruce. On the very driest of sites, it is  
18 relatively easy to obtain natural jack pine  
19 regeneration and the reason that it is easier is  
20 because they are sites which are relatively competition  
21 free. They are poorer sites, they are drier, they are  
22 less fertile, there is less competition and it is  
23 easier to obtain higher stocking levels and your  
24 natural regeneration results are more successful.

25 Similarly on black spruce sites, the

1       moister the site, the less competition and the easier  
2       it is to obtain spruce regeneration. Spruce likes a  
3       moist seedbed, but it doesn't tolerate the competition  
4       well.

5                   THE CHAIRMAN: Why do you get less  
6       competition when it's more moist?

7                   MR. HYNARD: Well, Mr. Chairman, it's  
8       because the most productive site-demanding species  
9       prefers that middle range.

10                  THE CHAIRMAN: So it's too moist, is that  
11       what it is?

12                  MR. HYNARD: Where it's neither too wet  
13       or too dry. That's right, it would in that case be too  
14       wet. And so it's easy to get black spruce regeneration  
15       because it's not a competition-prone site, but  
16       similarly it's pretty wet for black spruce too and so  
17       it's a relatively poor site.

18                  And in that case -- or with those  
19       examples in mind I made that statement. That is not a  
20       universal statement.

21                  MR. FREIDIN: Q. Now, that is a poorer  
22       site. What is the opposite of a poorer site?

23                  MR. HYNARD: A. Well, the opposite of a  
24       poor site would be a very good site.

25                  Q. And what sort of difference would you



1 expect in terms of the conditions on that site, the two  
2 that you have described, when you were trying to think  
3 about the type of stocking that you might get?

4 A. Well, the difference is the degree of  
5 competition that you would expect and the competition  
6 would affect the degree of natural restocking that  
7 could occur with those two examples in mind, black  
8 spruce and jack pine.

9 Q. And I understand that you will be  
10 talking a bit more starting on Monday in the tending  
11 panel in relation to this particular topic.

12 A. Thank you for that reminder. I'll  
13 try and be good this weekend.

14 Q. Again for you, Mr. Hynard. You  
15 indicated to Ms. Swenarchuk that it is true that  
16 planting does not necessarily lead to higher stocking  
17 results than are attained through natural regeneration  
18 but you said that doesn't mean planting won't result in  
19 higher yields.

20 Will you explain why that is so?

21 A. The reason that that is so is if the  
22 planting is conducted on very productive sites, the  
23 yield will be far greater than the natural regeneration  
24 which occurred on those poorer sites. It's really that  
25 simple.

1 A. Perhaps you could...

2 Q. Sorry, Mr. Hynard?

3 A. Could you repeat the entire question.  
4 I am not sure I answered your entire question.

5 Q. Okay. You indicated to Ms.  
6 Swenarchuk that -- you agreed that -- you said it's  
7 true that planting does not necessarily lead to higher  
8 stocking results than are attained through natural  
9 regeneration, but you continued on in that discussion  
10 of stocking and said that that doesn't mean planting  
11 won't result in higher yields.

12 And I was trying to get some  
13 understanding as to why you might get similar stocking  
14 results through planting in artificial -- planting in  
15 natural, but that doesn't mean that by planting you  
16 won't get -- I don't understand why -- you then said:  
17 "That doesn't mean planting won't result  
18 in higher yields."

19 A. Yes.

20 THE CHAIRMAN: Is that the reverse of  
21 that though, that it will result in higher yields?

22 MR. HYNARD: You can see why I had a  
23 problem with the questions.

24 THE CHAIRMAN: I am having a problem with  
25 the answer, it goes to the -- excuse me, Mr. Hynard.

1                   I just want to make clear what question  
2                   we are asking. Is the question that you are asking,  
3                   planting doesn't necessarily lead to higher stocking,  
4                   but planting may not necessarily attain greater yields  
5                   or that planting may attain greater yields?

6                   MR. HYNARD: Let me try and explain that  
7                   entire --

8                   MR. FREIDIN: I think I used two  
9                   negatives in my question. I think that is what caused  
10                  the problem.

11                  MR HYNARD: I counted six. What I was  
12                  trying to say there, Mr. Chairman, that it is true that  
13                  planting doesn't necessarily result in higher stocking  
14                  and Mr. Waito explained how stocking is measured and  
15                  what it means.

16                  In fact, natural regeneral methods on  
17                  suitable sites can give very high stocking levels. I  
18                  said that the fact that planting doesn't necessarily  
19                  result in higher stocking doesn't mean that there will  
20                  be a lower yield.

21                  If, to take a very hypothetical here -  
22                  and in fact an impossible hypothetical - we had natural  
23                  regeneration and artificial on the same site spaced in  
24                  exactly the same way, the only difference being that  
25                  one tree was natural and the other was planted, an

1 ordinary planted tree, one would expect their  
2 performance to be pretty similar.

3 But in fact, planting tends to be  
4 concentrated on the more productive sites for two  
5 reasons. One is, it's the method that will be most  
6 successful and it is on the most productive sites that  
7 those efforts are best rewarded.

8 So the planting results will give you a  
9 higher yield because it is on that better site. It  
10 will also give you a better yield because you get a  
11 generally better spacing to your trees, a more uniform  
12 spacing; whereas a naturally regenerated stand of the  
13 same stocking may have in one stocked plot 6 or 8 trees  
14 and in another plot none and you wouldn't expect the  
15 same outcome in that situation as in the planted where  
16 there was a better uniformity of spacing between trees.

17 And really those are the thoughts that I  
18 had in mind when I might made that statement.

19 MR. FREIDIN: Q. What is it about the  
20 more uniform spacing of the trees that gives it an  
21 advantage over the other situation where there are a  
22 whole bunch trees crowded together?

23 MR. HYNARD: A. Yes. Well, in Panel 12  
24 you will see that reason and that is that there is a  
25 competition between the crop tree species themselves



1 when they are excessively close together.

2 Q. Sorry for the confusion, Mr. Hynard.  
3 Mr. Hynard, would you take out the Exhibit 513 which is  
4 the FMA agreement that we spent some time on, and I  
5 want you to turn to page 14 of the groundrules. Do you  
6 have that, Mr. Hynard?

7 A. Yes I do.

8 Q. Now, you were referred to that page  
9 during the cross-examination yesterday and the  
10 specifications for spruce which is the second working  
11 group referred to, and you referred specifically to the  
12 section which is for block or strip cut for spruce. Do  
13 you see that?

14 A. Yes.

15 Q. Now, it was pointed out that the same  
16 stocking was expected from natural regeneration which  
17 is the type of regeneration that is indicated for block  
18 or strip cut, and the artificial regeneration of the  
19 black spruce, which is the first situation where there  
20 is clearcut, is the method of harvest; is that correct?

21 A. Yes.

22 Q. Now, Ms. Swenarchuk then asked you  
23 why, in those circumstances, is so little natural  
24 regeneration done.

25 Your answer was:

1 "Because natural is limited to suitable  
2 site conditions, that each method gets  
3 comparable results on certain site  
4 types."

5 Now, I want you to refer to the column  
6 entitled silvicultural prescription. Can you find that  
7 one, that column?

8 A. Yes.

9 Q. Now, for the two situations I  
10 referred to under the silvicultural prescription  
11 column, are there differences in the site conditions  
12 which are described?

13 A. Well, yes, there are. In the first  
14 one it reads: "If competition heavy...", and it makes  
15 no statement about heavy competition in the second  
16 category, the block or strip cut category and that  
17 would be an essential difference.

18 Q. So that is an example then that what  
19 you have been testifying to and what you basically gave  
20 to an earlier answer in fact finds itself represented  
21 in writing in silvicultural specifications?

22 A. Yes. It's represented right there.

23 Q. Thank you. A number of questions  
24 about the Auditor's Report to you again, Mr. Hynard.  
25 Exhibit No. 28, and I would like you to get that

1 document in front of you.

2 Now, one specific topic canvassed during  
3 the examination on that report was when the Ministry  
4 would receive information on regeneration success from  
5 an FMA holder and, in that regard, Mr. Waito indicated,  
6 and I am quoting:

7 "The first information that MNR would  
8 receive on regeneration success would be  
9 the results of the fifth year stocking  
10 assessments made five years after the  
11 treatment was done."

12 Now, there was also reference to page 20  
13 of the Auditor's Report, and if you could turn to that  
14 page. If you look at the second paragraph, could you  
15 just take a moment now and sort of read the subject  
16 matters which are listed and which it is critical to  
17 have up-to-date information on according to that  
18 paragraph.

19 MR HYNARD: A. Yes, I have read it.

20 Q. Now, Mr. Waito agreed with Ms.  
21 Swenarchuk that FMA holders don't report any of this,  
22 were his words, any of this to MNR.

23 My question for you, Mr. Hynard, is: If  
24 the Ministry does not receive stocking information for  
25 five years and forest management agreement holders are

1 not required to report to MNR on the information they  
2 have on the topics listed on page 20, that you just  
3 looked at, does that necessarily mean that FMA holders  
4 don't have that information or don't act on that type  
5 of information?

6 A. No, it doesn't mean that at all.  
7 And, in fact, FMA holders do gather information on  
8 those items that are important to regeneration success.  
9 The reason that they do that is that they are  
10 responsible for ensuring the success of that  
11 regenerating stand and they need that up-to-date  
12 information for precisely the reasons that concern the  
13 Auditor.

14 Q. And can you tell me: Are you aware  
15 whether there are activities that FMA holders engage in  
16 between the time they plant or carry out other  
17 regeneration treatments and the fifth year stocking  
18 assessments which are designed to increase the  
19 likelihood of meeting the stocking standards at year  
20 five?

21 A. Well, absolutely. Tending -- early  
22 tending would certainly be one of those activities that  
23 they do conduct for that purpose.

24 Q. And are those activities conducted on  
25 other types of forest management units as well?



1                   A. Are you referring to Crown management  
2 units?

3                   Q. And Crown management units and  
4 company management units?

5                   A. Yes, they are.

6                   Q. If the FMA holder doesn't meet the  
7 stocking standard on a fifth year stocking assessment,  
8 can that also affect the timing of the free to grow  
9 assessment on the same area?

10                  A. Well, it certainly could, yes.

11                  Q. Could you explain how?

12                  A. Well, if it failed to meet the  
13 stocking standards it is then the obligation of the  
14 company to retreat the area at its own expense and to  
15 reforest it in accordance with the groundrules; that  
16 is, to bring it up to the minimum stocking standards  
17 and that would require extra time.

18                  Q. Thank you.

19                  THE CHAIRMAN: Why would it inhibit an  
20 assessment of free to grow on what remains, or would  
21 it? Or can you not do free to grow until you first  
22 have met the minimum stocking standards?

23                  MR. HYNARD: One of the requirements of  
24 free to grow status is meeting the minimum stocking  
25 standards.

1                   MR. FREIDIN: Q. The other two being --  
2                   there are three criteria; one being stocking, the other  
3                   two are...?

4                   A. Yes.

5                   Q. The other two are...?

6                   A. The other is a height requirement and  
7                   the third is a freedom from competition requirement. A  
8                   stand which failed to meet a free to grow assessment  
9                   doesn't mean that it will not become free to grow in  
10                  the future. A tending treatment might remedy that  
11                  situation or simply time might remedy it if it was  
12                  simply failing to meet the height requirement.

13                  Q. I am going to stick with you, Mr.  
14                  Hynard. If the Ministry of Natural Resources did  
15                  assess every area that received a regeneration  
16                  treatment every year, would it be done at a cost?

17                  A. I'm glad your questions are getting  
18                  easier. It sure would cost money to do that, yes.

19                  Q. And can you advise whether that cost  
20                  would be significant?

21                  A. Absolutely, it would be significant.

22                  Q. During cross-examination on the  
23                  Auditor's Report you said that page 45 - perhaps you  
24                  could just turn to that page - page 45 indicated why  
25                  assessments on forest management agreement areas are

1 not the same as for contractors carrying out activities  
2 for the Ministry.

3 Now, what portion of page 45 were you  
4 referring to?

5 A. I was referring to the middle  
6 section, the second paragraph down from the title: MNR  
7 Response, and it reads that:

8 "Contractors carrying out activities for  
9 the Ministry have no responsibility for  
10 the eventual success of an established  
11 stand free to grow."

12 That is, once that contractor has planted  
13 those trees and been paid, his responsibilities end.  
14 And so it's very important that we are certain that  
15 before we make payment to him that he has done a proper  
16 job; the trees are in the ground the way they are  
17 supposed to be with respect to their spacing and  
18 quality of planting, selection of micro-site and all  
19 the other things that are inspected at the time.

20 With respect to FMA holders, their  
21 ultimate responsibility is in the stands meeting those  
22 stocking standards in its fifth year and that is our  
23 assurance.

24 And I think that MNR response on page 45,  
25 in my view, is a disagreement with the Auditor in his

1 report on the relationship between MNR and the FMA  
2 holder.

3 Q. Sorry.

4 A. The Auditor -- I had the sense that  
5 he felt that all of the FMA holder's activities should  
6 be monitored to make sure he's doing everything just  
7 exactly the way we would do it if we were doing it.  
8 But in fact we are not doing it, he is, and he's  
9 responsible for the outcome and that is stated in the  
10 MNR response and I believe that that's the correct  
11 position to take.

12 Q. Thank you. Now, on page 18 of the  
13 Auditor's Report -- you were referred to page 18 and a  
14 number of sections including the section on site  
15 preparation.

16 You indicated in your evidence that the  
17 Ministry will inspect site preparation to ensure work  
18 is done as part of your payment procedure - this is in  
19 relation to the FMAs - but that inspection does not  
20 involve an assessment of the quality of the site  
21 preparation.

22 And the question for you is: Why not?

23 A. Well, for the reason that I just  
24 explained, that the point that the Auditor was making  
25 that the quality of site preparation can affect the



1 outcome of regeneration success is absolutely true.  
2 It's not necessary for us to monitor the quality of the  
3 site preparation work since the FMA holder is  
4 ultimately responsible for the success of that  
5 regeneration. For us to carry out that monitoring  
6 would be an additional expense on our part.

7 On the other hand, I think that the  
8 Auditor did have a good point and his good point was  
9 that -- I think it was a question -- I saw a question  
10 in his mind in that report: Isn't five years just a  
11 little too long to go before you recognize that  
12 problem; isn't it a little too late to start solving a  
13 problem five years later? And, of course, that's good  
14 common sense, and I believe he's right in that.

15 And we have a designated Crown  
16 representative on each FMA and his job is to represent  
17 the interest of the Crown and if he were to -- he or  
18 she were to detect a problem on the part of the  
19 company's silvicultural activities, he should work at  
20 rectifying that, he should bring that to the attention  
21 of the company.

22 And I am sure they want to hear it as  
23 quickly as anyone, because they are ultimately  
24 responsible for the success of that regenerating stand.

25 So that I certainly agree with the

1 concerns of the Auditor, I disagree with his  
2 recommendations.

3 Q. Is there a reason that you're aware  
4 of for choosing the fifth year as the year that you  
5 assess for stocking?

6 A. Well, tree survival and ability to  
7 achieve stocking is dynamic and especially in the early  
8 years after planting, the first second and third year.  
9 The first year especially is critical to the survival  
10 of the planted trees and so if you wait until five  
11 years you have a really -- pretty good idea on the  
12 outcome of that tree survival, if you are relying upon  
13 planted trees for stocking.

14 Similarly, in growth -- or if you are  
15 relying on natural regeneration methods in growth for  
16 the continued natural regeneration, germination and  
17 establishment of tree seedlings following treatment  
18 continues for a number of years and were you to go in  
19 there earlier than year five you might determine lower  
20 stocking levels than would actually occur.

21 By year five those things have  
22 stabilized. So the fifth year is a good time to go in  
23 and evaluate stocking. It's in a state of flux before  
24 that time.

25 MR. FREIDIN: Now, the Auditor's Report

1 is Exhibit 28 and it contains - the Auditor's Report is  
2 dated July the 31st, 1985. It contains a response from  
3 the Ministry of Natural Resources dated September 13th,  
4 1985.

5 An undertaking was given to Forests for  
6 Tomorrow in Panel No. 4 to provide the evidence that  
7 the Ministry of Natural Resources prepared a follow-up  
8 report to the Auditor in 1988. That undertaking was  
9 met and information was provided.

10 I can just refer you, Mr. Chairman, to  
11 the transcript at page 5789, line 22 to page 5791, line  
12 6 contains the passages where the undertaking was  
13 given. It was, Mr. Chairman:

14 "Was it the intention of the Ministry to  
15 file at some stage the response to the  
16 Provincial Auditor's Report?"

17 MR. CAREY: I am not aware of that  
18 intention at this time.

19 THE CHAIRMAN: I seem to infer that there  
20 is an additional response referring to --  
21 additional to the one in the report  
22 itself.

23 MR. FREIDIN: Right. There has been an  
24 additional response. I intend to put  
25 that material before the Board."

1 The response reads - and I'm going to file a copy of  
2 what I am reading from, Mr. Chairman - states:

3 "The documentation referred to by Mr.  
4 Carey was not the original response of  
5 the Ministry of Natural Resources to the  
6 report of the Provincial Auditor in  
7 1985. The Ministry response to the  
8 report is located in the published report  
9 of the Provincial Auditor which was  
10 was filed as Exhibit 28. In 1988 a  
11 follow-up report was prepared by the  
12 Ministry of Natural Resources. This is  
13 the report described by Mr. Carey. The  
14 body of the follow-up report is attached.  
15 The large body of appended material is  
16 available in the EA reading room."

17 Q. Now, does anyone on the panel know  
18 whether the -- aware of the facts surrounding the  
19 submission of the report, the follow-up report to the  
20 Auditor in 1988?

21 MR. GREENWOOD: A. No.

22 MR. HYNARD: A. No.

23 MR. FREIDIN: Okay. Mr. Chairman, with  
24 the undertaking to provide --

25 MR. KENNEDY: Mr. Freidin, I believe that



1 information was conveyed in a letter form to Forests  
2 for Tomorrow and a copy of the follow-up report was  
3 filed in the reading room.

4 MR. FREIDIN: Right.

5 Q. I am showing you a document entitled:  
6 Ministry of Natural Resources report and supporting  
7 documentation on follow-up action to the Provincial  
8 Auditor's Report on The Forest Management Activities  
9 dated July 31st, 1985, dated June the 2nd, 1998.

10 Can you advise whether that's the  
11 material which accompanied the answer -- was the answer  
12 to the undertaking and is the information referred to  
13 as the body of the follow-up report is attached in the  
14 memo that I was reading from?

15 MR. KENNEDY: A. Yes, it is, with the  
16 exception of the attachments which are not here which  
17 were appended and available in the reading room.

18 MR. FREIDIN: Mr. Chairman, I would like  
19 to file that follow-up report which was provided to  
20 Forests for Tomorrow.

21 THE CHAIRMAN: That will be Exhibit 601.

22 ---EXHIBIT NO. 601: MNR follow-up report to Provincial  
23 Auditor's Report.

24 MR. FREIDIN: And that exhibit is a  
25 accompanying and perhaps it can form part of that

1 exhibit, is the covering description of the undertaking  
2 and the response to the undertaking.

3 MS. SEABORN: Excuse me. Mr. Chairman,  
4 does -- Mr. Freidin, does the material that has been  
5 filed in the reading room have an exhibit number?

6 MR. FREIDIN: No, it doesn't. I was at  
7 this stage, Mr. Chairman, just going to leave that  
8 there and perhaps there is every likelihood that  
9 subject matters dealing with this matter will be dealt  
10 with in Panel 16 and perhaps it might be more  
11 appropriate -- I would like to consider whether it's  
12 really necessary to file all that back-up  
13 documentation. There were things like the Timber  
14 Management Planning Manual and things like that which  
15 obviously the Board not only is aware of but are  
16 already filed as exhibits. I just don't want to add to  
17 the paper load.

18 THE CHAIRMAN: Okay. Well, why don't we  
19 leave it, Ms. Seaborn, in filing this document now Mr.  
20 Freidin will check what is in the reading room and see  
21 if any other material should be exhibited and decide  
22 when it might be addressed as well.

23 MS. SEABORN: That's fine. Thank you  
24 very much.

25 MR. CASSIDY: Mr. Chairman, I wonder if

1 Ms. Blastorah can assist me and advise whether or not a  
2 copy of this document was provided to parties other  
3 than Forests for Tomorrow?

4 MS. BLASTORAH: I am not aware of that  
5 right now, Mr. Cassidy. I don't know whether Mr.  
6 Kennedy is or not. He was assisting in preparation of  
7 that material.

8 MR. CASSIDY: I had been advised that it  
9 was in the reading room. It looks unfamiliar to me so  
10 I am just curious.

11 When answers to undertakings are given,  
12 Mr. Chairman, my understanding was that all parties  
13 were notified of the answer and I can appreciate that  
14 this matter has been going on for some time and I may  
15 have missed this, but it just doesn't look familiar and  
16 something I would have been interested.

17 MS. BLASTORAH: Mr. Chairman and Mr.  
18 Cassidy, the answer that is appended here is out of the  
19 package -- the large package of answers to undertakings  
20 that was provided as a single document and I believe  
21 Mr. Kennedy can maybe comment on this, but somewhere in  
22 my materials here I do have a copy of the letter that  
23 went out with that and perhaps I could advise you at  
24 end of the hearing as to the date of that letter.

25 MR. CASSIDY: All right, thank you.

1 THE CHAIRMAN: Mr. Cassidy, I think there  
2 is a general understanding, or there should be, that  
3 all undertakings given by parties in open session  
4 should be available to all parties, including the  
5 Board, so that when they are being addressed -- or  
6 fulfilled rather, everybody knows that they are in fact  
7 being fulfilled.

8 Because we are all making notations I am  
9 sure as we go along with respect to outstanding  
10 undertakings, and we should have some method of  
11 backtracking and making sure that they have been  
12 complied with.

13 MS. BLASTORAH: Mr. Chairman, in fact I  
14 have located that letter. It was letter a from  
15 Kathleen Murphy dated January 31, 1989 to all the  
16 parties and it reads:

17 "In response to undertakings made during  
18 the evidence of Panels 1 to 7, I enclose  
19 answers to undertakings Panels 1, 2, 3,  
20 4, 6 and 7."

21 And this particular response was appended  
22 to that letter.

23 MR. CASSIDY: Thank you very much.

24 THE CHAIRMAN: And just to clear up the  
25 procedural things, it is I think the Board's



1 understanding that with respect to interrogatories, the  
2 Board won't necessarily get interrogatories unless they  
3 are filed specifically by a party. And with respect to  
4 interrogatories being answered put in by one party, I  
5 am not sure what the rulings have been with respect to  
6 how many other parties get copies of those  
7 interrogatories.

8 Are they all exchanged amongst  
9 full-time -- parties receiving full-time  
10 correspondence?

11 MR. FREIDIN: Are you speaking of  
12 interrogatories which are being filed?

13 THE CHAIRMAN: No. If one party submits  
14 an interrogatory and it is answered, is the answer and  
15 the question, interrogatory, distributed amongst all  
16 parties receiving full-time correspondence?

17 MR. FREIDIN: Yes.

18 MS. BLASTORAH: Mr. Chairman, that's  
19 correct, all of the questions and answers. In some  
20 cases where voluminous material is provided in response  
21 to an interrogatory, it is only provided to the party  
22 who asked that interrogatory on the assumption that if  
23 anybody else wants it they will ask for it and, in  
24 fact, that has been the case in the past.

25 THE CHAIRMAN: Very well, thank you.

1 MR. FREIDIN: I can just tell you, Mr.  
2 Chairman, another ten minutes I think. I have only got  
3 about two more areas to deal with.

4 Just one question I think left on the  
5 Auditor's report.

6 Q. Does anyone on the panel know whether  
7 the Auditor responded to the 1988 follow-up document  
8 which has just been marked as an exhibit?

9 MR. HYNARD: A. (nodding negatively)

10 Q. And that is just quite fine, Mr.  
11 Kennedy, don't worry if you don't know about it.

12 MR. FREIDIN: Mr. Chairman, with the  
13 undertaking to provide or to prove the documents that I  
14 am going to refer to in a later panel, and in the  
15 interest of having the written record regarding the  
16 role of the Auditor from 1985 to 1988 complete for the  
17 Board, I would like to file the following documents.

18 A June 9th, 1988 letter from the Deputy  
19 Minister of the Ministry of Natural Resources to Mr.  
20 Archer the Provincial Auditor forwarding a copy of the  
21 follow-up report which was marked as exhibit--

22 THE CHAIRMAN: 601.

23 MR. FREIDIN: --601. A response from the  
24 Office of the Provincial Auditor to Mr. Goodman,  
25 Executive Director of the Forest Resources Group dated

1 July 27th, 1988 acknowledging receipt of Exhibit 601,  
2 and a copy of -- or excerpts from an Audit Report by  
3 the Provincial Auditor entitled: Ministry of Natural  
4 Resources, Aviation and Fire Management and Extra Fire  
5 Fighting Activities.

6 The excerpt just has the covering page,  
7 the Table of Contents and the third page was the  
8 section that is important. It refers to previous  
9 Auditor's reports and there is reference in this  
10 particular document to the follow-up 1988 report and  
11 the original 1985 Auditor's Report which just notes,  
12 and I am quoting:

13 "That our recommendations on the 1985  
14 audit were in the process of being  
15 implemented. It was the view of the  
16 Auditor, after receiving the 88 follow-up  
17 report, made the comment that we noted  
18 that the recommendations relating to the  
19 1982 report which was re: Fire and  
20 Aviation were substantially implemented  
21 and the recommendations on the 1985 audit  
22 were in the process of being  
23 implemented."

24 I would just like to file those documents  
25 to complete the paper record of that particular audit.

1 THE CHAIRMAN: Are you going to put these  
2 all in as one exhibit now?

3 MR. FREIDIN: I think so.

4 THE CHAIRMAN: Very well. Exhibit 602.

5 MS. BLASTORAH: (handed)

6 THE CHAIRMAN: Well, perhaps could we  
7 give it Exhibit 601A. We might as well refer to these  
8 specific documents.

9 Are you going to be dealing with these at  
10 some point down the road in evidence?

11 MR. FREIDIN: I am not too sure whether  
12 we will be dealing with the ones I have just put in,  
13 but I think we might be dealing with the follow-up  
14 report. Oh, I did.

15 THE CHAIRMAN: Why don't we mark this  
16 last file of three documents: Exhibit 602A is the  
17 letter dated June 9th; 602B is the letter dated July  
18 27th, 1988, and the last document as Exhibit 602C.

19 Thank you.

20 ---EXHIBIT NO. 602A: Letter dated June 9, 1988.

21 ---EXHIBIT NO. 602B: Letter dated July 27, 1988.

22 ---EXHIBIT NO. 602C: Excerpts from Audit Report from  
23 Provincial Auditor entitled:  
24 Ministry Of Natural Resources,  
Aviation and Fire Management and  
Extra Fire Fighting Activities.

25 MR. FREIDIN: Q. Mr. Waito, you made



1 comment today that you would expect survival to be  
2 lower in year five; why?

3 MR. WAITO: A. Simply because I would  
4 expect to see some tree seedling mortality by the --  
5 from the time it was planted and year five as a result  
6 of competition that may develop on the site and other  
7 environmental factors that might cause the trees to  
8 die.

9 Q. Is that normal?

10 A. Yes, it is normal.

11 Q. Mr. Greenwood, Mr. Hynard gave  
12 evidence about silvicultural specifications on page 14  
13 of the FMA agreement - I don't think you have to look  
14 at it - and he gave further evidence, this is at page  
15 14, about spruce - in fact you just gave some evidence  
16 in response to my questions about spruce - and he also  
17 gave further evidence during cross-examination that  
18 natural regeneration of black spruce was limited to  
19 certain sites.

20 And in relation to natural regeneration  
21 of black spruce, that it can't be applied everywhere,  
22 it gives good results on some sites, on others there is  
23 very high risk of failure.

24 And Ms. Swenarchuk then commented that  
25 the modified harvest that they were speaking of was

1 with black spruce and suggested to Mr. Hynard that he  
2 wasn't a boreal forester. And she went on with further  
3 questions on another witness.

4 Are you a boreal forester, Mr. Greenwood?

5 MR. GREENWOOD: A. Yes, I am.

6 Q. Do you agree with the evidence of Mr.  
7 Hynard to which I just referred and the other evidence  
8 he gave in relation to black spruce?

9 A. Yes, I do.

10 Q. Mr. Kennedy, are you a boreal  
11 forester?

12 MR. KENNEDY: A. Yes, I am.

13 Q. Do you agree with that evidence?

14 A. Yes, I do.

15 Q. Mr. Waito, are you a boreal forester?

16 MR. WAITO: A. Yes, I am.

17 Q. And do you agree with that evidence?

18 A. Yes, I do.

19 Q. Mr. Baker. Mr. Baker, I know you  
20 have been upset about not being asked any questions on  
21 re-examination, so I have saved the last one for you.

22 MR. BAKER: A. Thank you.

23 Q. In fact I think probably a few bets  
24 have been won or lost.

25 A. I think I lost.

1 Q. On page 33 of the witness statement -  
2 I don't think you have to refer to it - it indicates  
3 that your present position is with the Northwestern  
4 Ontario Forest Technology Development Unit.

5 A. That's correct.

6 Q. Ontario Ministry of Natural Resources  
7 out of Thunder Bay.

8 A. That's correct.

9 Q. That your position is a black spruce  
10 program forester?

11 A. That is correct.

12 Q. And your duties are described as  
13 being responsible for providing professional staff  
14 support and leadership for the black spruce crop  
15 development and extension programs including all  
16 aspects of management from seed to harvest.

17 Is that an accurate reflection of your  
18 duties?

19 A. Yes.

20 THE CHAIRMAN: How do you ever get that  
21 on a business card?

22 MR. FREIDIN: Q. Can you tell me, do you  
23 agree with the evidence that Mr. Hynard gave in  
24 evidence-in-chief, cross-examination and on  
25 re-examination about black spruce?

1 MR. BAKER: A. Yes, I do.

2 MR. FREIDIN: Those are my questions for  
3 this panel.

4 THE CHAIRMAN: Thank you. Thank you,  
5 panel. We will see what members of you return for the  
6 next one next week.

7 Everybody remember that we are going to  
8 start at 11:15 on Monday shortly after we arrive, and  
9 we will try and finish on Monday no later than 4:15  
10 since I have to be back in Toronto that evening and  
11 have to catch the 5:10 plane.

12 And then we will be starting the  
13 following day at 11:15 as well.

14 MR. FREIDIN: That will be a full day on  
15 Tuesday?

16 THE CHAIRMAN: Yes, yes. Well, it will  
17 be a full day starting at 11:15.

18 MS. BLASTORAH: And, Mr. Chairman, do you  
19 intend to sit late as a result?

20 THE CHAIRMAN: Well, we'll see how it  
21 goes. We will see what kind of progress we are making.

22 MS. BLASTORAH: Thank you, Mr. Chairman.

23 THE CHAIRMAN: Thank you.

24 ---Whereupon the hearing adjourned at 4:10 p.m., to be  
25 reconvened on Monday, June, 5th, 1989, commencing at  
11:15 a.m.











